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THE COLDEN LETTER BOOKS.

VOL. II.

1765—1775.

THE COLDEN PAPERS.

TO THE R^T HON^{BLE} LORDS COMMISSIONERS FOR TRADE
& PLANTATIONS, &c

New York, Ap. 14th 1765.

MY LORDS,

In obedience to your Lordships commands I now send a Box directed to your Lordships containing an abstract of all the Grants of Lands in the Ten Counties of this Province from 1664 to 1760 and of the grants of the last half year ending the 12th April 1765. Having already sent from 1760 to the last half year. In those abstracts are specified the names of the Grantees, the date of the Grant, the quantity of land Granted where the quantity is expressed in the Grant, & the Quit rent where any is reserved. So that now a compleat abstract of all the Grants registered in the Secretaries Office are before you. On this occasion I cannot omit mentioning the great Diligence of the Deputy Secrettary in haveing this abstract made out in so short a time with a continued attention, & a considerable expence in clerkship. I am, &c.

TO SIR JEFFERY AMHERST.

New York, May 3^d 1765.

SIR,

I cannot suffer so direct an opportunity as this by Col. Robinson to pass, without acknowledging the honour you have done me, by your kind Letter of the 9th of February.

This Winter I have been forced by the Lawyers into a public dispute in supporting the Kings Instructions. They have placed their hopes of success in clamorous noise artificially raised & which it was not in my power to prevent, tho' I endeavoured all I could to have the matter in Dispute quietly submitted to his Majesty's determination in his Privy Council: but this did not suit their purpose. Notwithstanding of all the artifice which has been used to excite animosity among the People, they will quietly submit to whatever the King shall think fit to Determine.

Col. Robinson was present at the public Debates, & can inform you of what you may be desirous to know in this or any thing else relating to this Country. I am with great respect, and very affectionately Sir Yr.

TO MAJOR G^L THE HON^{BLE} ROBERT MONCKTON.

New York, May 3^d 1765.

SIR,

I have the honour of your Letter of the 9th February. I did every thing that was in my power to prevent the public Disputes which have happened, consistently with my duty in supporting the Kings Instruction, & endeavour'd to have had the matter quietly submitted to the Kings Determination. But the Gentlemen of the Law seem to have placed the chief stress of their Cause in raising public Clamour, & therefore all endeavours to prevent it became fruitless. Notwithstanding of this I am fully persuaded the People of this Province will quietly submit to the Kings Determination whatever it be.

By the care that I have taken that no reply be made to a licentious abusive weekly printed Paper, the Administration is restored to its usual tranquility & I hope it will continue so.

It will give me the greatest satisfaction to have my Conduct receive your approbation & to preserve the honour of being, Sir, Yr.

TO HIS EXCELLENCY BENNING WENTWORTH, ESQ.
GOV^R OF N. HAMPSHIRE.

New York, May 13th 1765.

SIR,

I have the favour of yours of the 26th of last Month. Soon after I received his Majesty's Order in Council for determining the boundary between this Province & New Hampshire, I gave directions to the Att^y General to forbear any farther prosecution of the Persons you mention in your Letter, of which I doubt not you have received an account from them before this time. It gives me pleasure to have done a thing so agreeable to you before your desire was made known to me. I am with great truth & Regard.

TO THE HON^{BLE} SIR WILLIAM JOHNSON, BART.

Spring Hill, May 27th 1765.

SIR,

I have this moment received the inclosed Letter for you from the Board of Trade, which my son sent me by Express. The Lords Commissioners in their Letter to me of the 16th of March inform me that the King in consequence of a Resolution of the House of Lords had sent back two Mohawk Indians named Hermanus & Joseph at the public Expence & I am ordered to send them to you with a proper person to conduct them. As I doubt not your Letter contains the Resolution of the House of Lords & the Kings

pleasure with respect to these Indians, I think it needless to transmit copies of what is sent to me.

You have by this a strong instance of the regard the King & the House of Lords have to the honour of the Mohawk Nation that they would not suffer any of them to have the disgrace of being exhibited as a public shew. At the same time the Mohawks may learn to guard against the Delusions of mean base spirited pretending friends.

I now give directions to my son Alexander to have these Indians taken care of & to be sent forward to you by the first Sloop with some Person to conduct them to you.

This Day I likewise received your Letter of the 17th Inst., I am very sensible of the trouble you must have at the time the Indians leave you, I hope it will be made pleasing to you by your success in your negotiations with them.

Gen^l Gage in his Letter to me of the 26th informs me that the Shawanese are come to Fort Pitt in very good humour have delivered up 40 Prisoners, all they have except a few sick, who were out hunting. That their Deputies are on their way to you, & that they have left Hostages at Fort Pitt. The Delawares wavered & wanted to treat with the Quakers, but they were soon brought to reason.

I write at this time to my son that if possible he may make a Map & Return of your Land that I may transmit it by the Packett which is to sail Saturday week.

TO THE R^t HON^{ble} EARL OF HALIFAX.

New York, 31st May 1765.

MY LORD,

I have the honor of your Lordships Commands of the 9th of March. I have the satisfaction to inform your Lordship that notwithstanding of the continued

endeavours of some Persons in this Place by licentious Papers weekly published to continue and excite uneasiness in the Peoples Minds, the administration of Government continues in its usual tranquility. The effect of these publications has only been to sink the credit of the authors, & when I consider that they are Lawyers neither Loved nor Esteemed, I doubt not it may be in the power of a Governor to become popular at their expence, & I am confident notwithstanding of the camours artificially raised of imaginary dangers, the People will quietly submit to the authority of Parliament & his Majesty's determination of the case in dispute relating to appeals.

My Lord, I am extreemly unhappy in haveing given your Lordship an opinion by my Letter of the 28th of January that I had not a due regard to his Majesty's 39th Article of his Instructions relating to offices in this Province Granted by his Majesty's Letters Patent or by his Royal Sign Manuel. As the Commission which I have given to Stephen De Lancey my Grandson determines by his Majesty's pleasure, I did not conceive that the giving it is in the least inconsistent with that article of his Majesty's Instructions. The administration of Justice made it necessary to appoint some person without delay. I flattered myself indeed that his being my Grandson would not have raised any objection to the Person.

This is entirely submitted to your Lordships pleasure as all the actions are of My Lord, Your Lordships

TO THE R^T HON^{BLE} EARL OF HILLSBOROUGH, HANOVER
SQUARE, LONDON.

New York, 31st May 1765.

MY LORD,

Your Letter of the 7th March which you did me the honour to write affected me extreemly, when I found

that you doubted my sincerity in the assurances I had given your Lordship of assisting M^r O'Brien in locating the Land which the King has commanded me to Grant to the Earl of Ilchester, Lord Holland & M^r Upton. The only method I can take to remove these doubts is to inform you candidly of the principals on which I gave M^r O'Brien my advice, which I have sincerely done to the best of my knowledge.

No large settlement can be made in this Province with any prospect of advantage to the noble Persons who undertake it but with a view to the Culture of Hemp. In this view the nature of the soil is of much more importance than the proximity of the place to New York or Albany. The Lands in general between New York & Albany are unfit for Hemp, & the Culture of it cannot succeed without a great expense in Manure, except some few places commonly call'd low Lands which are yearly overflowed & have been cultivated since the first settling of the Country. From all the information which I have received, no Lands, not already granted fit for Hemp, are more conveniently situated for transportation than those which I proposed to M^r O'Brien, haveing Water Carriage either towards Albany & New York, with a little Land Carriage intervening as between the Mohawks Country & Albany while at the same time they have Water Carriage all the way to Quebec if they should choose to carry that way.

Now since the King has determined the boundary of New York to the West bank of Connecticut River many large & fine Tracts of Land as I am inform'd, may be found fit for the cultivation of Hemp of which those noble Lords may have their choice.

I can only add that if I were to make a settlement any where for the cultivation of Hemp, on any Lands within this Province not already Granted, I would choose some part of those Lands I have just now mentioned preferably to any others.

If the Pattent of Kayaderosseras be Vacated, Lands

much more convenient by their Situation for the Cultivation of Hemp I believe may be found. I have ordered the Attorney General to enter a *Scire Facias* in order to vacate that Grant, but when it will be determined I cannot say. But when this is done the Land must be Purchased of the Indians, before they will allow any settlement to be made, and a new Grant will be necessary to secure the title.

On this occasion it may be proper to observe that tho' by our constitution we do not suffer any Man to hold Lands on an Indian title only, yet the Indians have that Regard to their own Rights that after one Man has Purchased from the Indians and another should attempt to settle in opposition to the Purchaser from them, by virtue of the King's Grant, the Indians would not suffer such Grantee to settle without the consent of the Purchaser from them.

It is true my Lord if some Persons could obtain a Grant & were in quiet possession of that large Tract claim'd by Ranslaer, they could make considerable profits of it by peddling it out in small Tracts to poor People, on payments to be made at several & distant times, but in my opinion no Man can make advantage of it by undertaking large improvements, & I believe every Man will join with me in the same Opinion, who knows the present state of this Country.

I have done every thing in my power to inform Mr O'Brien, and at the same time directed the Surveyor General of Lands to shew him the Maps of any part of the Country he shall desire, & I am perswaded this has been chearfully complied with: and I shall give the Surveyor Gen^l of Lands directions to make out a Map of the Pattents between Conojohary & the Canada kill, to be sent by the next Packett, that your Lord^{sh} may have every thing before you of which I conceive you may be desirous to be informed. Mr O'Brien has never applied to me for a Grant of any Tract of Land which I have refused: and I shall Grant any Tract he shall desire in my power to Grant; but

you know it is not in the Kings power to put him in possession, otherwise than by due course of Law, where another is in possession & claims a Right to the Lands.

Now my Lord I flatter myself that after you have read this and the answer I have given to the particulars mentioned in your Lordships public Letter, you will be of opinion that I do not deserve that blame which you thought I did when you wrote that Letter. I was glad to find at last that soothing kind appellation of fellow servant in the latter part of it; allow me to make use of this kind Expression. You my Lord & every Servant the King has must be sensible that the faithful performance of his duty often exposes him to the Resentments of Envy & Malice, & frequently to resentments which arise only from mistakes & Ignorance. The Kings Servants who are at a great distance from him are in greater danger from such Resentment than others near the Person of his Majesty.

Be assured my Lord that I have nothing more at heart than to gain some share of your Lordships Esteem & to preserve the honor of being, My Lord, your Lordships

TO THE R^T HON^{BLE} LORDS COMMISSIONERS FOR TRADE
& PLANTATIONS.

New York, 31st May, 1765.

MY LORDS,

I have the honour of your Commands of the 6th of March. It gives me the greatest concern that the Earl of Ilchester Lord Holland & M^r Upton should have conceived that I have not to the utmost of my power endeavour'd to have served them in their intended settlement, which I am fully perswaded will be greatly for the benefit of this Country. Every consideration which can influence any Mans actions, inclined

me to gain their Lordships esteem and favour by Serving of them.

I still insist notwithstanding of whatever information may have been given that there is no Land on the Mohawk River, & for several Miles distant from it between Conojohary & the Canada Creeks, which is not already Pattented, and near the River settled and Improved as much as any other Land in the Province, and that this may appear with all the evidence which I can give, I shall give orders to the Surveyor General of Lands to make out a Map of the Grants made in that place that it may be transmitted by the next Packett, which is to sail in eight Days after this.

When Mr O'Brien on his arrival in this Place inform'd me of his Majesty's order he mentioned in general Lands on the Mohawks River near Conojohary, as the place he had in view. I inform'd him truly that no lands on that River remained ungranted & not Pattented, and that no Lands on either side of that River at a distance from it were purchased of the Indians. I then conceived, and am still of the same opinion that no Lands which can now be purchased of the Indians are of more value either as to soil or Situation, than those near Ticonderoga and Crown Point.

By Mr O'Brien's description of the Lands which he proposed to have, I did believe that he expected to have Lands situated on the banks of the Mohawk River, but now by the description in the recital of the Memorial presented to your Lordships, I suspect the Land intended is the same which the Indians gave to Sir William Johnson soon after the conclusion of the Peace, which I did not in the least suspect when Mr O'Brien applied to me. For this reason it becomes incumbent on me to inform your Lordships of every thing I know of that matter.

It is a constant practice among the Indian Nations, continued from the earliest time in all their conferences on public affairs with other Nations, to open & conclude them with mutual Presents. After Sir William

had inform'd the Mohawk Nation of the Conclusion of the Peace, & of the Cession of Canada, and of all the Countries as far West as the Mississippi, the Conojohary Tribe of the Mohawks, in the fullness of their hearts with joy, & sense of their gratitude to Sir William for his great Services, made him a present of a considerable Tract of Land between the Creek or River opposite to the Conojohary Castle and the Canada Creek or River on the back of the Lands already Pattented.

Soon after this Present was made Sir W^m informed me of it, & requested a Grant of the Lands in the usual form, which I communicated to the Council. They were of opinion that so large a Tract could not be Granted to one Person & without previous License of Purchasing consistently with his Majesty's Instruction. Being sensible of Sir William's great services, accompanied with such continual fatigue of Mind & Body that very few are capable of, I advised him to apply to the King for his Majesty's command to me to Grant the same, which he accordingly resolved to do.

The unexpected breaking out of hostilities with the Indians, made Sir William neglect all his private affairs till after the pacification last Fall when he again applied to me to transmit his request to your Lordships. I thought this could not be done with propriety unless it were accompanied with a Map & description of the Lands he desired to have granted him, and for that purpose last Fall I desired a Survey to be made of them, which by the approach of the Winter Season and Sir Williams continual application to the Indian affairs could not be finished till lately, and now I hope to send it by the next Packett.

As to that part of your Lordships Commands to give my assistance in locating their Lands on any part between New York & Albany which I on strict enquiry shall discover not to be legally Pattented & Improved, I know of none except one large Tract about 20 Miles below Albany at a Place called Claverack,

claimed by one Van Ranslaer: the State of which claim I apprehend is fully laid before your Lordships by Captⁿ John Campbell and other Reduced officers at whose request I wrote to your Lordships the 11th of October last. That your Lordships may be fully apprised of every that I have on this subject, I shall inform you of the past public transactions in this claim so far as I can from my memory.

This claim of Ranslaer's has been contested by his neighbours so long as I can remember. He claims a Tract of 170,000 acres, whereas they and I believe truly, think that he has only 23000 acres Granted. Several Persons at distant times have taken Patents within his claim and continue to possess them. About four years since several Officers of the Government, as some reward for their public services with whom I allowed one of my Children to join, petition'd for a Grant of 1000 acres to each within this claim. After solemn Argument before the Council they came to a Resolution that no Grants should be made till the validity of Ranslaers Claim shall be Determined by due course of Law. Last summer several Reduced officers in pursuance of his Majesty's Proclamation in their favour, applied to me for Grants of Land within Ranslaers Claim. I laid their Memorial before the Council who persisted in their former Resolution of refusing their consent till the Merits of Ranslaers Claim shall be determined by Law. By his Majesty's Commission by which the Governor of this Province is authorized to Grant Lands, the consent of the Council is necessary previous to the Grant, & is expressly mentioned in the Grant: but as I am convinced in my own mind of the injustice of Ranslaers Claim at the request of the Reduced officers, I promised to write to your Lordships in their favour.

I have so particularly inform'd your Lordships of the matters above related, because I cannot otherwise preserve my integrity in the confidence which Sir William Johnson & the reduced officers have placed in

me. Now that I have done this your Lordships future commands shall be submissively obeyed by, My Lords, &c

TO SIR WILLIAM JOHNSON, BART.

Spring Hill, May 31st

DEAR SIR,

Last fall when Mr O'Brien and Lady Susan O'Brien came to New York, they inform'd me as I was likewise by a private Letter from the Earl of Hillsborough that the Earl of Ilchester, Lord Holland and Mr Upton had obtained the Kings Grant of 60,000 acres of Land in this Province, & I was directed to assist Mr O'Brien in locating this Grant to the best advantage. Mr O'Brien mentioned some Lands on the Mohawks River near Conojohary & insisted strongly upon it. I assured him there were no Lands on that River which remain ungranted; but now by a Letter of the 6th of March from the Board of Trade, I suspect the Lands which the Indians gave you are the lands which those noble Persons designed to have. Inclosed is a copy of my answer on that head, & as I cannot have any return from you before the next Packett sails on Sunday week, I shall transmit to the Board of Trade together with the Survey of your Lands the letter which I proposed to write, the copy of which you have seen, that nothing may be wanting on my part to serve you according to the expectations I have given you. It will remain with you to support your own Interest without delay, because I expect some peremptory orders if you do not prevent it. I am, &c

TO THE R^T HON^{BLE} LORDS COMMISSIONERS FOR TRADE
& PLANTATIONS.

New York, June 7th 1765.

MY LORDS,

I have the honour of your Lordships Commands of the 16th of March, in obedience thereto I have sent the two Indians mentioned therein to Sir W^m Johnson with a Person to conduct them. I make no doubt of their going to him without any difficulty.

Last winter Sir W^m Johnson informed me that some Germans who live near the Mohawks had carried off two of that tribe with design to exhibit them in Germany in order to make Money, and that it had given offence to the Nation. I discovered them before they had got on Board of the Ship which was designed to carry them, and I perswaded them to return to their own Nation which they accordingly did. The Resolution of the House of Lords and his Majesty's Pleasure so expressly signified will put an effectual stop to such vile practices.

By all the accounts which I have received, the Indian Nations every where incline to live peaceably with us, and it was universally agreed it was necessary to open a free Trade with them to preserve them in this good disposition. I have granted Licences to about fifty Traders on condition of their not exposing any Goods to sale in any Place where his Majesty has not a garrison fixed, and to observe such farther Regulations as his Majesty shall think fit to establish, for performance of which Condition each Trader has given Bond with Security in £500.

In my Letter of the 13th of last Month I informed your Lordships of an enormous claim of the Patentees of Minisink, and that I had ordered the Attorney General to file Informations of Intrusions against some Persons who had sat down on some Lands within that claim which remain in the Crown. This has had the

effect which I expected, some of the principal Proprietors submitted before process issued, and Prayed Grants of the Land which they held in severalty, which I have by advice of Council, granted under the present Regulations, and 2/ 6^d Sterl. Quit rent for every hundred acres: This is one Instance of what may be done by vigorous measures when at any time they become requisite.

Inclosed I transmit the Attorney Generals Report to me in obedience to his Majesty's Order in his Privy Council of the 19th of March last, in the Complaint of Liettent Langhorne, Commander of the Chaleur.

The Administration of Government goes on in its usual tranquility, notwithstanding of all the artifice employed to create disorder: and I am confident it is not now in the power of any Faction to disturb the administration unless the Assembly when they meet be deluded by the Lawyers into some extravagant Resolutions, which however if it should be attempted, I hope will be without success. I am with the greatest Respect & Submission, My Lords.

TO THE R^t HON^{ble} EARL OF HILLSBOROUGH.

New York, June 7th 1765.

MY LORD,

Since my last of the 31st of last Month, some Gentlemen from the West banks of Connecticut River inform me that the soil in that part of the country is very rich, fit for the culture of Hemp, & the Timber for producing of Pott ash, in which last article several have succeeded last year beyond expectation. Pott ash is the first profitable production that can be made in improving new Lands. In this part they have a very considerable advantage in their Transportation by Connecticut River.

I have never been in these back parts of the Country,

& therefore I can only write from the information of others: but this I know in general that the Lands near the Sea, as far as the rivers are navigable, are of a light poor soil which after the first crop requires manure to produce Grain to any Advantage: that the soil in the inland parts is very rich, except where it is mountainous, & even some of them have a rich soil upon them. The soil of the inland parts produce different kinds of Timber & Plants, from what grow on the Lands near the Navigable Rivers.

Soon after the Peace, the Governor of New Hampshire laid all that part of the Country between Crown Point & Connecticut River out into Townships of six miles square which great numbers from Massachusetts Bay & the Colony of Connecticut both of the overstocked with People designed to settle. Few of them have any settlements at this time made on them, a very few may have 20 or 30 families at most, others only half a dozen or half a score Families; but the far greatest number have not a single Settlement. The poor people who have expended their all in making their settlements, I am perswaded your Lordships will be of opinion ought in equity to have their small farms secured to them. This may be done without any inconveniency to the noble Lords, should they incline to make their settlement in that part. These People may be at the first Settlement of great use in furnishing Provisions & otherwise.

By all the information which I can obtain the soil of that part of the Country between the Water at Crown Point & Connecticut River is the best of any in this Government which is not already granted. I now believe the situation on Connecticut River is preferable not only for the conveniency of Transportation by that River, but on consideration that settlers or Labourers may be procured from the neighboring Colonies of Massachusetts Bay & Connecticut, at a much less expence than they can be procured any other way. Should my Lords Ilchester & Holland prefer

the situation on Connecticut River to that on the waters near Crown Point, I believe that the Gentlemen who have at this time given me information, & who live in that part of the Country, some one or more of them will gladly assist in locating the Kings Grant to the best advantage & thereby they may hope to gain the favour of Persons of such high Rank & great Influence.

I have put off the granting of Lands in that part of the Country to next October that I may before that time know my Lord Ilchester & Hollands pleasure as to the location of the Kings Grant to them. Many of the People settled near Connecticut River will come at that time some hundreds of Miles to New York, in order to have their settlements secured to them. Common justice requires that they should not be longer delayed, as the expence must be greater than they can bear. Nor can I delay them longer without haveing my Integrity impeached & jealousies raised among the People highly prejudicial to me in the administration of Government: besides the continued importunities of reduced officers who design to locate the Kings bounty to them in that part of the Country. I beg therefore that your Lordship will let me know the Resolution of my Lords Ilchester & Holland in respect to the Location of the Kings Grant to them on Connecticut River before that time, October next.

My Lord, I shall think myself very happy to convince your Lordship how much I think it my duty, as well as it is my inclination to obey your Commands and to do every thing which I know to be agreeable to your Lordship & is in the power of, My Lord,
Y^r &^c

TO THE R^T HON^{BLE} LORDS COMMISSIONERS FOR TRADE
& PLANTATIONS.

New York, June 8th 1765.

MY LORDS,

Sir William Johnson haveing with indefatigable assiduity and great prudence preserved the fidelity of the Mohawks and others of the Six Nations, and attached them firmly to the British Interest during the late war; at the conclusion of it by a Peace whereby they found their most sanguine hopes accomplished, & that in recompense of their fidelity their Interests were become peculiar objects of the Royal attention: They in gratitude to Sir William Johnson for his continued care of them and their Interests in the year 1760 made him a present of a considerable Tract of Land not far distant from the upper Mohawk Castle.

Soon after this Sir William applied to me for a Grant of this Land by Letters Pattent, but the Council refused their Consent, because no gift can regularly be made of Lands by the Indians or purchased from them without previous Licence from this Government: and because Licenses of Purchase of Lands in the same part of the Country had issued to several Persons before that time.

No Purchase however has been made, nor do I believe the Indians ever will transfer their Right to any other Person.

On these considerations I have directed that Tract given by the Indians to be surveyed in 'presence of the Indians that the boundaries of it may be ascertained, a copy of which survey I now enclose.

As his Majesty has ordered considerable Quantities of Land to be Granted to the Reduced officers of his army who served in America and has likewise by his Order in Council directed some larger Tracts to be Granted on other considerations to private Persons, I presume your Lordships will be of opinion that Sir

William Johnson's services deserve as much the Royal favour as those of any other Person, the rather as he has neglected availing himself of any Indian Grants and only possesses such Lands as he formerly purchased from the settlers, on which at a great expence & risque he has during the heat of the War adventured to settle a large number of Families; that therefore you will be pleased to recommend my request in Sir William's favour to the King, for his Order to the Governor of New York to grant this Land on the same Terms that Lands are granted to Reduced officers or otherwise as your Lordships shall think fit.

If the orders should come while the administration is in my hands it will give me great pleasure to obey them.

I shall only add that tho' this was truly a Gift or Present from the Indians, yet it was attended with considerable expence to Sir William. For according to the Indian customs among themselves, no Gift is received without making a suitable return, Sir William tells me the Present he return'd on their executing the Deed amounted to 1200 Pieces of Eight—that he has since given them several sums on that account. And the expence of surveying adds considerably to the charge.

I flatter myself that this application in favour of Sir William will not be disagreeable to your Lordships. However, it is done with entire submission as everything is from, My Lords.

The above Letter was actually wrote in February last at which time I expected to have had the Survey of the Lands mentioned in it returned to me; but Sir Williams engagements in the public affairs with the Indians made him neglect his own private business, that it did not come to the Surveyor General of Lands office till very lately. When I wrote that letter I did not in the least suspect that the Earl of Ilchester, Lord

Holland and Mr Upton could have any thoughts of this land, and therefore I assured Mr O'Brien when he mentioned Lands near Conojohary that he must be under some mistake, because all the Lands on both sides the Mohawks River are already Granted, and that no Lands Purchased for the Crown in that part of the Country remain to be Granted. But since I had the honour of your Lordships last Letter, I suspect that these noble Persons have had these Lands in view which the Indians have given to Sir William Johnson. That your Lordships may have all the Information I can give you, I have directed the Surveyor General to make out a Map of all the Lands Granted on the Mohawk River together with the Lands which the Indians have given to Sir William. Now that I have done this, together with what I wrote on the 31st of last Month for your Lordships information Be assured my Lords that your Commands shall be punctually obeyed as soon as received by, My Lords

TO THE HON^{BLE} SIR WILLIAM JOHNSON, BART.

Spring Hill, June 13th 1765.

DEAR SIR,

I have the favour of yours of the 24th of last Month. You have my hearty congratulations on your success in your negociations with the Indians, and that you have at last got rid of such numerous & troublesome Guests.

I have often thought that the Six Nations assumed too much to themselves in directing affairs with all the other Nations & that some method ought to be taken to check their ambition of having the lead everywhere. By what I have heard (the Senecas at least) had a principal part in the late general revolt. They must at all times have a great influence on all the nations to the westward who pass thro' their Country

to treat with you. Now that all our apprehensions of the French are removed, our Principles of negotiating with the Indians are quite changed. As the Six Nations are the most ambitious and the most Politic & have been long practiced in all the artifices of negotiation between the English & French may it not be dangerous & impolitic to suffer them to take the lead in all public affairs. To avoid this may it not be proper for you to Treat with the distant Western Indians separately once in two years at Detroit to incourage their ambition of Independency on the Six Nations, & by all means to prevent for the future such an union among all the Indian Nations as lately happened. For the same purposes may it not be proper for you sometimes to meet the Shawanese & Delawares & the nations in that neighborhood at Fort Pitt. You are the best judge how proper such measures may be.

As to Kayaderosseras you know that on my laying your Letter on that subject before the Council, an order of Council issued to the Attorney General to Prosecute the Pattentees by *Scire facias*, & to take his information from you. After this I do not perceive how you can well avoid to give him all the information you can which may serve to vacate that Pattent. The Topics on which your information may be given for that purpose, I mentioned to you in my Letter which I wrote to you immeadiately after the order was given to the Attorney General. After this Information is given the Attorney Generals Opinion ought to be in writing how far that Information may be sufficient to vacat the Pattent by *Scire facias* or if it be not what other method may be proper to procure reliefe to the Indians. When this is done you may lay the whole matter with great propriety before the Plantation Board for their direction. If it should be thought proper to apply to Parliament for Reliefe to the Indians this application cannot properly be made without the previous Informations which I now propose & the Attorney Generals Opinion thereon in writing.

In my preceeding Letter I informed you that by a Letter from the Plantation Board & a private Letter from my Lord Hillsborough I suspected that the Earl of Ilchester, Lord Holland & M^r Upton (for whom M^r OBrien is agent) intended to lay the Kings Grant to them on the Lands which the Indians have given you. By the Packett which sail'd last Sunday I sent my Letter in your favour in the same words in which it was corrected & amended by you, together with a Map of the Lands granted in the Mohawk Country, from the Surveyor Generals office, including the Lands which the Indians have given to you. I have done all that is in my power to serve you. It remains with you to take what farther care you can of your own interest. M^r OBrien & Lady Susan OBrien are gone on a visit to you. You will thereby have an opportunity of Learning what you can from them on this subject.

It will be impossible for you to please both the Indians and the Pattentees of the great Tracts. I believe not one of the great Tracts were fairly purchased. Those of them which are settled & where the Indians have long desisted from making any Claim, are very different from the others where no settlements are made, and where the Indians have at all times asserted their right. In these cases there is no other Rule but to do justice to the Indians, & to dispise Calumny which no good man could ever avoid.

If the Attorney General can bring the validity of the Pattent of Kayaderosseras to be determined upon a Point of Law, the issue will not be doubtfull: because if the judges here should mistake all allow that a Writ of Error to the King in Council lies in such Case.

Now Sir, I have wrote my Sentiments freely on every point you desired, & this I think the best prooffe of my being with truth & affection, Yr most obedient humble Servant

TO THE HON^{BLE} JOHN TEMPLE ESQ, SURVEYOR GENERAL
OF HIS MAJESTY'S CUSTOMS FOR THE NORTHERN
DISTRICT.

New York, May 20, 1765.

SIR,

I flatter myself that you have at all times found me not only ready to assist you and all the officers of the Customs in the execution of their Duty, but likewise desirous to do you every Personal good Service in my power, & for that reason I hope you'll believe that I am desirous to serve M^r Fenton who I am inform'd is your brother in law. In consequence of your Letter of the 5th of March I administer'd the usual Oaths; I told him at the same time that tho' I make no doubt of your powers to appoint preventive officers in any place you shall think proper, I doubted of your authority to open a new Port.

After the Receipt of your Letter of the 6th of May, I communicated it to his Majesty's Council of this Province. They were of opinion that without being informed of the authority by which a new Port is opened they cannot advise me nor can they judge of its expediency unless the informations you have received of the smuggling carried on in Hudson's River were communicated. But that without doubt it will be impracticable or Oppressive for every Vessel which unloads or Loads in Hudsons River to enter & clear at Albany in many places where they Load & unload above 100 Miles distant from Albany & where Albany is at a much greater distance from those places than New York is, and yet as I am informed M^r Fenton requires this to be done.

You may assure yourself that I shall continue to give all the officers of the Customs all the assistance which I legally can. I am with great truth & Regard Sir, &c

TO HIS EXCELLENCY GEN^L GAGE

New York, July 8th 1765.

SIR,

As there is no Guard now in his Majesty's Fort in this City, I think it my duty to apply to your Excellency for such a number of Men at least as may be sufficient to secure it against the Negroes or a Mob. I think one Company may be sufficient for this purpose, but this I submit to your Judgment. I am, with the greatest regard, Sir

TO HIS EXCELLENCY GEN^L GAGE

Spring Hill, July 22, 1765.

SIR,

I have the honour of yours of the 18th relating to a German and a Negroe who had joined with the Indians in their late barbarous hostilities against his Majestys subjects. However guilty these Persons may be, or we may be convinced in our own minds of their guilt, if they be delivered over to the civil authority, and no legal Evidence can be produced against them they must be discharged, in which case it may be impracticable to prevent their return to the Indians.

For which reason I agree with your Excellency that it may be proper to send the Negroe to the West Indies, & I wish he could be sent to the Spanish Mines.

If the German be put on board any of the Kings ships on the Northern Station he will certainly make his escape in the winter while the ships are laid up: and therefore I think it more adviseable to send him to Pensacola or the West Indies with some Detachment going thither, & to be put on board of one of his Majesty's ships on the West India Station. I am with the greatest regard, Sir.

TO J. T. KEMPE, ATTORNEY GENERAL.

Spring Hill, July 25. 1765.

SIR,

I send the above extract by M^r McDonald. After you have promised the Record of the Governor's Commission particularly one paragraph in it by which he is directed to execute the powers given him in the commission pursuant to such Instructions as he shall receive under his Majesty's Sign Manual & Signet or by his order in his Privy Council, Please to give me your opinion whether the Governor can legally Grant lands in pursuance of his Majestys Order in his Privy Council without the consent of the Council of New York. I cannot conceive that the King can intend to submit his order in his Privy Council of Great Britain to the control or consent of the Council of New York. I am, Sir

TO M^r STEPHEN DESBROSSES.

Spring Hill 26th July 1765.

SIR,

I have your's without date delivered to me this Day. I am sorry to find a Religious Society whose predecessors left their native Country to avoid Persecution should so far forget Charity towards each other as to fall into scandalous disorders in their place of public Worship. But unless these disorders amount to a breach of the Peace, or have an evident tendency to it, they do not properly come under the cognizance of the civil Magistrate. In such case you are to apply to the Magistrates of the City. I heartily recommend mutual benevolence and forbearance from all strife and anger as most becoming a Religious Society. I am, Sir

TO J. T. KEMPE, ATTORNEY GENERAL.

Spring Hill, July 29th 1765.

SIR

I have your Letter of the 27th in answer to mine of the 25th which seems to me to contain an ambiguity that I desire you would clear up. By your answer it may seem requisite that the King in his Order should direct the Governor to Grant the Lands without advice of Council, in order to make it legal for him to do so. And therefore I must desire a more explicit answer to the following Question Whether the King by his order in Council directing the Governor to Grant 10,000 Acres of Land to L^t James McDonald has empowered the Gov^r to grant the same without the consent of the Council of New York.

The King's order above referred to is in the Secretary's office, and I am informed you have seen it & may peruse it when you please. I am, Sir

TO GOLDSBROW BANYAR, ESQ, DEP^y SEC^{ry}.

Spring Hill, 1st August 1765.

SIR

Two thirds of the Gentlemen of the Council being Interested in the Dispute on which Oliver De Lancey & John Morin Scott have entered a caveat against Granting the Land Surveyed for L^t James McDonald in pursuance of his Majesty's Order in his Privy Council I have thought proper to consult the Attorney General whether the Gov^r be empowered by the Kings Order in Council to Grant 10,000 acres to Lieut. James McDonald without the consent of the Council of this Province which he has answered in the affirmative. And having carefully considered the reasons offer'd by M^r De Lancey and M^r Scott in support of their

Caveat, I am fully satisfied that the ten thousand acres Surveyed for L^t McDonald are vested in the Crown. The Caveat is therefore hereby dismissed & you are to proceed in preparing Letters Pattent for Granting the said Ten Thousand Acres to L^t McDonald.

TO HIS EXCELLENCY FRANCIS BERNARD, ESQ^r, G^a
MASSACHUSETTS BAY &^c.

New York, Aug^t 3, 1765.

SIR,

I have the honor of yours of the 20th of last Month, inclosing the copy of a Petition of Nicholas Whitmarsh and others, complaining of their being disturbed in their possessions by M^r Livingston. I have not the least information of the Facts mentioned in the Petition & I must observe that it is not accompanied with any proof other than the bare assertion of the parties concerned; and only of words said to be spoken by M^r Livingston.

We have done everything in our power to put an end to these disputes of jurisdiction between the two Governments, and to the many mischiefs which have thereby ensued, & may otherwise hereafter happen. For this purpose on the recommendation of the Lords Commissioners for Trade and Plantations, the Legislature of this Province last Winter passed an Act, an authentic copy of which I sent to you, for the Concurrence of your Province. Had your Province thought fit to concur, an effectual stop must be soon put to all complaints on this Subject. I cannot prevent any Man's takeing what legal steps he thinks proper for securing his own Rights; & if illegal steps should be taken our Courts of justice are open for relief. However I shall do what is in my power to preserve the Peace in that part of the Country, without any Byass in favour of M^r Livingston. I am

TO THE HON^{BLE} SIR W^M JOHNSON, BAR^T.

Spring Hill, Aug^t 31, 1765.

DEAR SIR,

I have your kind favour of the 15th Instant. The reason of your not hearing from me since I received your last proceeding is that I had not met the Council since that time, & could not inform you of their Resolution in respect of your Certificate of the 2000 acres you propose for Captⁿ Johnson. I hope you are confident that I will do everything in my power to serve him. The Gentlemen of the Council have not been in good humour for some time past, I do not meet them when there is no necessity for it. I intend for New York next Tuesday at which time I shall know their sentiments.

The General who Dined with me last Sunday has later Letters from M^r Coogan than yours. He hopes everything will go well in that Quarter. Lieut^t Fraser is arrived safe in New Orleans. Pondiac saved him. Pondiac it seems does what he can to recover favour.

No doubt you have heard of the Riot at Boston and of the Seditious Discourses & threats at New York. James McEvers had accepted the office of Distributor of Stamps & enter'd into Bonds before me for the due Execution of his offices, which he sent home by the last Packett. Yesterday he sent me a Resignation of his office, being terrified by the suffering & ill usage the Stamp officer met with at Boston, & the threats he has received at New York.

Notwithstanding of this I hope with the assistance I expect to defeat all their Measures & that the Stamps shall be delivered in proper time after their arrival. I shall not be intimidated.

The People of New York are surprisingly excited to sedition by a few Men, but I hope their wicked designs will be defeated and their machinations end in their obtaining the reward they deserve. You may believe

that these things employ my thoughts & that great prudence is required in my Conduct at this time. I make no doubt of your kindest wishes, & of your assistance if it shall be requisite, for which purpose I must beg of you to be in readiness to come to New York if your attendance in Council be required. Indeed I heartily wish that your affairs may permit you to come to New York about the beginning of October, because I have few to advise with in whom I can have that confidence I have in you—& things often arise which do not permit delay in the Execution. I have thoughts of meeting the Assembly in October.

My absence from New York has prevented my doing any thing formally for M^r Fraser, but my son has given orders to his Deputies to look out for a piece of land for him that may answer his purposes so that he will not in reality suffer by this delay. I am truly desirous to encourage him. I am with the greatest affection & Regard, Sir,

TO M^r JAMES MCEVERS.

Fort George, New York, Sep 3, 1765

SIR,

Last Friday I received your's without date informing me of your Resignation of the office of Distributor of Stamps. I am extremely sorry for the occasion, as it cannot be productive of any good. Please to inform me in what Vessel the Stamps are to be brought to this place, as soon as you can, & of any other information you shall receive relating to this affair, but keep the same Secret from every other Person. I am with great Regard, Sir,

TO HIS EXCELLENCY GEN. GAGE.

New York, Sept^r 4th 1765.

SIR,

Only three of the Gentlemen of the Council met this day. They did not think it proper for them to give an opinion upon the subject of your Excellency's Letter of the 31st past, till there was a fuller Board. Peremptory Summonses are sent to all the Members of the Council to meet on Friday next. In the meantime all the Gentlemen in Town will meet again tomorrow to consider farther the matter. I am with great Regard

TO CAPTⁿ KENNEDY, COMMANDER OF HIS MAJESTY'S
SHIP COVENTRY.

Fort George, New York, Sept^r 3^d 1765.

SIR,

M^r McEvers having resign'd his office of Distributor of Stamps and desired me to take care of the Stamps when they arrive, I am very desirous to advise with you for this purpose: for I know not how I can do it without your assistance. M^r McEvers in his Letter to me tells me that his friends assure him there is a design to destroy the Stamps at their first arrival, & he is confirm'd in the Truth of this by the many inflammatory Papers published in this Place, tending to excite Sedition. As I know not in what Vessell the Stamps may come, I think it may be of use to prevent any wicked design of destroying the stamps to give orders to the officers under your Command to speak with every Vessell on board of which the Stamps may be as soon as possible after the vessells arrive within the Hook, & to inform the Master of the Vessell on board of which the Stamps are of his Danger, and that the Vessell be brought to an Anchor under your Protection

till such time as proper methods can be taken for securing the Stamps from any violence. I shall stay in Town till Saturday Morning & shall be very glad of consulting with you on what may be proper for his Majesty's Service on this occasion. I am with great Regard, Sir,

TO HIS EXCELLENCY THE HON^{BLE} MAJOR GENERAL
THOMAS GAGE &c.

Spring Hill Sept^r 2nd 1765.

SIR,

I have this moment the honour of your Letter of the 31st of last Month, and am extreamly oblinded to your Excellency on your expressing your Sentiments so fully & freely on the present situation of the public affairs of this Government. I had, before I received your Letter resolved to be in Town tomorrow; and now I shall, as soon as I can have his Majesty's Council for this Province meet, communicate your Letter to them, & I hope it will have its proper effect. In the meantime I shall freely give you my sentiments.

The only method in my opinion to prevent mischief is to have such a Military force present as may effectually discourage all opposition to the Laws. A weak force which the Seditious can have any hopes of overcoming, may be productive of great mischiefs, I therefore think that if it can be done without prejudice to his Majesty's Service, a Battalion may be necessary on this occasion in order to cut off all hopes of success of any seditious attempts, or if such a number cannot be had in time, I am of opinion that it may be proper to order as many as circumstances will allow to March immediately to New York & that they who are nearest or least wanted March without delay.

You know Sir the Men with whom I must act & their beheaviour on the present occasion, & what may be expected from them. In case the civil Magistrates

cannot or are not willing to do their duty, you must Judge what is incumbent on you as well as on me in such case, when all civil Authority is at an end.

I can truly say that before I received your Excellency's Letter I have not had from any of the Gentlemen of the Council, or from any Magistrate, or from any other Person the least information of the Seditious present temper of the People, except by a Letter from Mr McEvers received last Friday on the receipt of which I resolved to return to Town. From this you may judge what is to be expected.

As to the Quartering of the Troops, you know the Act of Parliament for that purpose must be pursued. The City Barracks on the Commons seem to me the most proper place for that purpose. I think it improper to make any requisition of the magistrates till near the time that the Men are expected to arrive.

If I mistake not a great quantity of Military Stores are now at New York without any Guard. This in my humble opinion makes it necessary to have some Military force as soon as possible to prevent their falling into the hands of the Seditious. Perhaps this may be part of their Plan which makes them so audacious.

I shall have the pleasure of waiting on you soon after I come to Town, that I may have the honour of your advice at a time when I can have confidence in very few. I have the honor to be with the greatest Regard & Esteem, Sir

TO MONS^r MICHEL CHARTIER DE LOTBINIERE AT
QUEBEC.

New York, Sept^r 11th 1765.

SIR,

The Right hon^{ble} Lords Commissioners for Trade & Plantations by their Letter dated the 13th of July 1764 inform'd me that you had presented a Memorial to them, desiring a Confirmation of two Concessions,

which you now mention in your Letter to me of the 17th of August last. Before I received their Lordships Commands all the Lands on the West side of the Waters from Lake George to Crown Point had been Granted to Reduced officers under his Majesty's Seal of this Province pursuant to his Royal Proclamation: and those on the East side had been Survey'd & set out for other Reduced officers: of which I immediately gave an account to the Board of Trade & Plantations. As those Lands have allways been deemed to be within this Province, the Grants that have been made to the Reduced officers of his Majesty's Army must in my opinion be conclusive: and tho' I have not received their Lordships Commands in answer to my Letters to them on that head, I make no doubt the Surveys made on the East side for other Reduced officers will be Confirmed. I am with great Regard, Sir,

TO JARED INGERSOLL, ESQ. AT NEW HAVEN CONNECTICUT.

Fort George, New York, Sept. 14th 1765

SIR,

I have yours of the 9th desiring me to take care of the stamp Paper for your Colony when they arrive. In my opinion they may be put more safely & with greater ease on board one of the Men of War at this Place, & more easily conveyed from thence to your Colony, than by placing them in this Fort, where it is too probable there will be a necessity of placing those designed for this Colony. This Fort at present is crowded with Men & military Stores. It may be proper for you or some Person for you to be in this place to take care of your Stamp'd Papers, as my hands are too full with the affairs peculiar to this Province. May you in your Colony be enabled to remove from your People this strange infatuation which prevails in

all the Colonies & which if continued must become in the highest degree prejudicial. I am with great Regard, Sir,

TO ZACHARIAS HOOD ESQ,* ATT THE KINGS ARMS
TAVERN, NEW YORK.

Fort George 16th Sept^r 1765.

SIR,

The Governor is extreamly sorry for the occasion which has oblidged you to apply to him for a Lodging in the Fort. He orders me to inform you that you shall be very welcome to a Bed in his House. I am with great Regard, Sir, &c

D. C.

TO THE RIGHT HON^{BLE} HENRY SEYMOUR CONWAY, ESQ,
HIS MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR
THE SOUTHERN DEPARTMENT.

New York, 23^d Sept. 1765.

SIR,

In obedience to his Majesty's Commands signified by the honour of your Letter of the 12th of July to direct my Dispatches to you, I now lay before you, Sir, the present state of this Province.

Soon after it was known that Stamp Duties were by Act of Parliament to be paid in the Colonies, virulent Papers were publish'd in the weekly News Papers fill'd with every falsehood that malice could invent to serve their purpose of exciting the People to disobedience of the Laws & to Sedition. At first they only denied the authority of Parliament to lay internal Taxes in the Colonies, but at last they have denied

* Appointed Distributor of stamps in Maryland.

the Legislative authority of the Parliament in the Colonies and these Papers continue to be Publish'd.

For some time I did not inmagine these Papers could have the effect on the Minds of the People which I found they afterwards had. It was necessary for the preservation of my Health during the heats of summer to retire to a Country House I have at about two hours travelling from this City. While I was there & General Gage in the neighbourhood, the violent Riotts happened at Boston, & in consequence of them M^r McEvers appointed Distributor of Stamps for this Province was so frightened by Threats of the like Treatment that M^r Oliver, the Distributor of Stamps at Boston, had met with, that he resigned his office & by Letter inform'd me of his Resignation a Copy of which is inclosed. Soon after the receipt of that Letter, I received a Letter from General Gage who had return'd to the City a few days before, the substance of which is in the inclosed Minute of Council. I returned immediately to my Residence in the Fort, & call'd his Majesty's Council before whom I laid the Generals Letter, & the Letter from the Stamp officer; but many of the Gentlemen being absent in the Country, as usual during the Heats, the Gentlemen present declin'd giving any advice till the Board was full. After the absent Members were called in they unanimously advised as in the inclosed Minutes.

In the Month of May the General sent the small Guard of the Fort to the southward, which consisted of about Twenty of the Artillery Regiment, leaving only 3 or 4 of them Invalids, not fit for any Duty. I represented to the General that I could not answer for the Safety of his Majesty's Fort in its present State from a Mob, or from the Negroes, in Consequence of which he ordered a company of the 60th Regiment from Crown Point which arrived in July. Major James of the Royal Regiment of Artillery, haveing observed the riotous disposition of the people in this Place, after what had happened in Boston, & being inform'd that

many of the Guns of the Fort were Honeycomb'd, & the Carriages rotten, and that there was no Powder in the Fort, he order'd in some Field Pieces & Howitzers together with a sufficient quantity of ammunition and other Stores. Part of the Relief for the Regiment of Artillery arriving from England the Day I returned to the Fort, they were brought into it. The Garrison now consists of 100 effective Privates besides officers, & it is secure against any attempt or Insult that was apprehended.

It is evident that a secret Correspondence has been carried on throughout all the Colonies; & that it has been concerted to deter by violence the Distributors of Stamps from Executing their office, and to destroy the stamped Paper when it arrives. They have succeeded in frightening M^r McEvers who is appointed to distribute the stamps in this Province, but they have lost all hope of destroying them as they make no doubt of my securing them in the Fort when they arrive. I hope to persuade M^r McEvers to resume his office. However that be I shall do everything in my power to have the stamps distributed at the time appointed by the act of Parliament, & if I can have this done, I believe the present Bustle will soon subside.

The General Assembly of the Massachusetts Bay sent invitations to all the Assemblies on the Continent to send committees to meet at this Place on the first Tuesday of next Month, and a Committee from the Assembly of South Carolina arrived about a week since for that purpose; whether any other will come I know not. This meeting was kept secret from me till lately. I have in discourse discountenanced it as an illegal convention & inconsistent with the Constitution of the Colonies by which their several Governments are made distinct & independent on each other. Whatever plausible pretences may be made for this meeting their real intentions may be dangerous.

M^r Hood who is appointed Distributor of Stamps in Maryland fled from the Mob there to prevent being

forced to resign & came to this Place. After he came a design was form'd here to force a resignation from him which he escaped the Moment before it was to be put in execution by retiring into the Fort, & he nows lives with me under my protection.

I agreed with the Gentlemen of the Council that considering the present temper of the People, this is not a proper time to prosecute the Printers & Publishers of the Seditious Papers. The Attorney General likewise told me that he does not think himself safe to commence any such Prosecutions. But what principally weighs with me is that I am fully perswaded some of the most popular lawyers are the authors of the Seditious Papers, & have been Countenanced by some of the Judges & others in the highest trust in the Government. No man who converses generally, & knows the Characters of the Men, doubts of who the Authors are, but in the present circumstances it is not practicable for me to obtain legal Evidence. I must add, Sir, that in the present state of the Courts of Justice in this Province (of which I informed my Lord Halifax by my Letter of the 23rd of January last & others immediately preceeding) private property as well as the rights of the Crown, & the Kings authority must become extreamly precarious, in consequence of which unless remedied, confusion & disorder must necessarily ensue. The reasons of my thinking so will not only appear from the Letters I wrote last Winter to my Lord Halifax, but likewise from the Letters I wrote and the Papers which at the same time I transmitted to the Board of Trade.

By the precautions taken, & from the fears which Persons of property have conceived of Mobs, I hope to preserve the Peace of this Province notwithstanding that these Seditious Papers continue to be published. I enclose one of them which was published since the Council & the Magistrates of this City assured me that they would do everything in their power to prevent any Mob or Riott.

I have at all times endeavoured to perform my Duty & in some instances where I perceived the doing of it would be greatly prejudicial to my private Interest, and I beg you'll be assured Sir that I shall continue so to do while the administration is in my Hands, and that I am, with the greatest Respect & submission

N. B. Minutes of Council refered to in this Letter are of the 4th 7th & 9th Days of September 1765.

TO SIR HARRY MOORE, JERMYN STREET, LONDON.

New York, Sept^r 23^d 1765.

SIR,

I have the honour of yours of the 2^d of July, and very heartily congratulate you on your nomination for this Government. I flatter myself that some difficulties I have gone through in the administration will tend to make yours more easy to you. Nothing could give me more pleasure than that you were in this Place at this time, as I am confident your presence would contribute to bring the People to their senses, who seem now to be running Mad in opposition to the Stamp Act. I have done everything in my Power to have your authority properly supported when you arrive, and no man can more earnestly desire your speedy arrival than I do.

I have made your Compliments to the Gentlemen of the Council as you desired. I have the honour to be with great Sincerity, Sir,

TO HIS EXCELLENCY WILLIAM FRANKLIN ESQ

Fort George, New York, Sept 29, 1765.

SIR,

I have the honour of yours of the 25th desiring me to Lodge the Stamped Papers for your Province in this Fort. You may be assured that I shall take all the care in my power to have them preserved in case they come to this place. This Fort is now full of Men & Military Stores, so that I have no place to Lodge them but in the Governor's House, which may be very inconvenient to Sir Harry Moore who may be soon expected & probably comes in the same ship which brings the Stamped Papers for this Place.

May it not be as safe & more convenient to have your Stamps put on board one of the Kings Frigates now here, who may land them at any time and place you may think proper.

I have received no kind of Directions in relation to the Stamped Papers. I am with great Regard, Sir, &c

TO D^r BENJ^s FRANKLIN, CRAVEN STREET, LONDON.

New York Oct^r 1, 1765.

SIR,

My regard to you makes me give you the trouble of the inclosed Printed Paper,* one or more bundles of which I am well informed were delivered to the Post Rider at Woodbridge by James Parker were distributed by the Post Riders in several parts of this Colony, & I believe likewise in the neighbouring Colonies: the doing of which was kept secret from the Post Master in this Place. It is believed that this Paper was Printed by Parker after the Printers in this

* No. 1 of the Constitutional Courant, date Sept. 21, 1765.

Place had refused to do it, perhaps you may be able to judge from the Types.

As he is Secretary to the General Post office in America, I am under a necessity of takeing notice of it to the Secretary of State by the return of the Packet which is daily expected, & I am unwilling to do this without giving you previous notice by a Merchant Ship which Sails Tomorrow.

It will give me great pleasure to hear of your health & of your success in everything that tends to your benefit. I am with great Esteem & affection, Sir.

AT THE COURT OF ST. JAMES'S 26th DAY of JULY, 1765.

PRESENT:

THE KINGS MOST EXCELLENT MAJESTY.

ARCH BISHOP OF CANTERBURY	EARL OF ASHBURNHAM
LORD PRESIDENT	EARL OF EGDMONT
MARQUIS OF ROCKINGHAM	VISCOUNT FALMOUTH
LORD SEWART	VISCOUNT HOWE
EARL OF HUNTINGDON	VISCOUNT VILLIERS
EARL OF ALBEMARLE	LORD EDGUMBE
EARL OF DARTMOUTH	LORD GRANTHAM

Upon reading at the Board a Report from the Right Hon^{ble} the Lords of the Committee of Council for hearing Appeals from the Plantations, Dated the 17th of this Instant in the words following—viz:

Your Majesty haveing been pleased by your order in Council of the 10th of this Instant, to refer unto this Comm^{ee} the humble Petition of Waddle Cunningham setting forth, That in the Term of Octr. 1763, an action of Trespass assault and Battery was brought in the Supreme Court for the Province of New York by Thomas Forsey against the Petitioner, to which the Petitioner having Plead the general issue not Guilty,

the Cause came on to be tryed by a Jury in the said Court in the Term of October 1764, when the Jury gave a Verdict against the Petitioner and £1500 Damages besides costs, and for which Damages Judgment was entered up together with £75: 19: 6. for costs of suit—That the said Damages being excessive & unreasonablen, and the petitioner otherwise aggrieved by the said Proceedings, Prayed Leave of the said Court to appeal from the said Verdict and Judgment to the Governor & Council of the said Province sitting as a Court of Appeals, but the said Court were pleased to refuse the same, Insisting that no Appeals would lye therefrom, Whereupon the Petitioner applied to the L^t Governor and Council of the said Province sitting as a Court of Appeals to be admitted to appeal to them from the said Verdict & the Judgment thereupon pursuant to your Majesty's Instruction to the Governor of the said Province, 'That tho' the Lieutenant Governor of the said Province was willing to allow the Petitioner an appeal as Pray'd, yet the majority of the Council differing in opinion with him was overruled by them, and the Petitioner was refused by the said Court of Appeals to be admitted to appeal from the said Verdict and Judgment and was sent to seek redress elsewhere. That the Petitioner conceiving himself to be greatly aggrieved by the said Verdict & Judgment & proceedings in the said Action, and the said Court haveing refused the Petitioner an Appeal to the said Court of appeals in the said Province, the Petitioner Pray'd the Lieut^t Governor and Council to admit him to an appeal therefrom to your Majesty in Council which the said Court would not grant. Wherefore the Petitioner humbly Prays that he may be at liberty to appeal to your Majesty in Council from the said Verdict & Judgment of the said Supreme Court in New York, and from the said Order or Determination of the said Lieut Governor & Council in New York, whereby the Petitioner was denied to be admitted to an appeal to them from the said Verdict &

Judgement, and that he may be allowed copies of all the Proceedings in the said Cause duly authenticated and be otherwise relieved in the Preme's. The Lords of the Committee in obedience to your Majesty's said Order of Reference this day took the said Petition into their consideration and do agree humbly to report to your Majesty as their Opinion that it is not adviseable for your Majesty to grant the Petitioner Liberty to appeal to your Majesty in Council from the said Verdict and Judgment given in the said Supreme Court in New York in regard such appeals ought only to be admitted from the Determination of the Superior Courts in your Majesty's Plantations in America and there being a Court of Appeals established in New York, the Petitioner ought first to carry his appeal to that Court; and their Lordships are therefore of opinion that it may be adviseable for your Majesty to order the Governor or Commander in Chief of New York to admit the Petitioner to bring an appeal from the said Verdict & Judgment of the Supreme Court of October Term 1764, to the Governor or Commander in Chief & Council of New York as a Court of Appeals, and in case either of the Parties shall find themselves aggrieved by the Determination of that Court, that then the said Governor or Commander in Chief do admit them to appeal therefrom to your Majesty in Council; and that the petitioner be allowed copies of all the Proceedings in the said Cause duly authenticated upon paying the usual fees for them.

His Majesty this Day took the said Report into Consideration and was pleased with the advice of his Privy Council to approve of what is therein proposed and to Order as it is hereby Ordered that the Petitioner be admitted to bring his appeal from the said Verdict & Judgment of the Supreme Court of October Term 1764 to the Governor or Commander in Chief & Council of New York as a Court of Appeals, and in case either of the Parties shall find themselves aggrieved by the Determination of that Court that then they be ad-

mitted to appeal therefrom to his Majesty in Council And the Petitioner be allowed copies of all the Proceedings in the said Cause duly authenticated upon paying the usual Fees for the same. Whereof the Governor, Lieut Governor or Commander in Chief of his Majesty's Province of New York for the time being, and all others whom it may concern are to take notice & govern themselves accordingly.

W. SHARPE

This order was received by the L^t Governor, October 4th, 1765.

TO THE R^t HON^{BLE} H. S. CONWAY ESQ. PRIN^C SECT^R
STATE, &c.

New York Oct^r 7th 1765.

SIR,

By the advice of his Majesty's Council of this Province I have reprieved Godfrey Swan of this Place, condemned for the Murder of his own child, an Infant, untill his Majesty's Pleasure shall be known. This Reprieve was advised on the Recommendation of three of the Judges who were present at the Tryal. As this Man has for some years past been under a dangerous Religious Delusion & Enthusiasm tempting him to take away his own Life; which has frequently returned by fits, tho' at other times he is an Industrious & sober Man without giving offence, as appear'd by the Testimony of many at his Tryal, the Gentlemen of the Council are of opinion that it may not be safe to suffer him to go at large as such Enthusiasts may be Tempted to commit the most horrid Crimes while under such unaccountable Delusion.

Copies of the Judges Letter, & of the Minutes of Council are inclosed. I have the honor to be with the greatest Respect & submission, Sir.

TO HIS EXCELLENCY JAMES MURRAY ESQ, GOV^r OF
CANADA.

New York, Oct^r 8th 1765.

SIR,

I received the honour of your Excellency's Letter by M^r Stewart of the 29th of June, while I was in the Country during the heats of Summer, at which time many of the Gentlemen of the Council had likewise retired. As soon as I returned to Town I communicated it to the Council with the Estimate of the Loss of the People of Montreal.

The Gentlemen of the Council are of Opinion that the recommending this Charity to the Assembly when they meet, will be the most effectual method of obtaining proper Relief to the poor Distressed People. Sir Harry Moore is appointed our Governor, & by his Letter to me of the 9th of August I may expect him here in a fortnight. I do not think it expedient in the present Temper of the People in this and the neighbouring Colonies in respect to the Act of Parliament laying Stamp Duties, to meet the Assembly before he arrives. Then I doubt not his influence will be more effectual than mine can be in procuring Reliefe suitable to the occasion, & which may become this Province to give.

In every State of Life it will give me the greatest pleasure to receive your Commands whenever you think I can serve you & that I may have the honour of being at all times, Sir, Your most obedient, and Humble Serv^t

CADWALLADER COLDEN

TO SIR JEFFERY AMHERST.

New York, October 10th 1765.

SIR,

Lord Adam Gordon is so extreamly oblidging as to desire the care of the Letters I write to my Friends. I the more gladly lay hold of the honour he does me, as he can inform you of everything you may desire to know from America. He has perform'd the Tour of all the Colonies, & has been an Eye Witness of some extraordinary Events in several of them at this time.

In the beginning of September the People of this Town appeared as much inclined to Sedition & Violence as in any other of the Colonies, 'till by the assistance of the artillery Companies which happily arived from England at that time, I put the Fort in such state of Offence & Defence that effectually discouraged them. In doing this Major James has been very diligent in adviseing & assisting me. At the same time some Gentlemen of Property discovered the danger they were in from Tumults & Riots, & heartily join'd me in preventing of them, by their influence on the minds of the People. This violent Spirit was raised by wicked inflammatory Papers daily published. No man in this Place doubts who the Authors are. A few popular Lawyers whom you know well.

I have had a difficult part to act at this time, but I hope soon to be releived from it by Sir Harry Moore's Arival, when I shall return to Spring Hill. I doubt whether in any Case I can avoid the malice of some Men, greatly disappointed in some matters or designs, by performing my duty in the trust his Majesty has reposed in me, and I suffer by it in my private Interest. May not an old servant of the Crown who has endeavour'd above 40 years since first of the Council to perform his Duty faithfully, & often greatly to the prejudice of his private Fortune, be allowed to hope the favour of the Crown in his old age, & that others

may not be discouraged in following his example. Probably I may retain the honour of L^t Governor without a single farthing to support it.

I have the honour of your kind Letter of the 21st June, & had thereby the first account of the appointment of Sir Harry Moore to this Government. I am with the greatest Respect and Gratitude, Sir,

TO THE R^T. HON^{BLE} H. S. CONWAY, HIS MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR THE SOUTHERN DEPARTMENT.

New York, 12th October 1765.

SIR,

Since the last which I had the honour to write to you of the 23^d of September, this Town has remained quiet tho' inflammatory Papers continue to be publish'd, exciting the People to oppose the Execution of the Act of Parliament for laying a stamp Duty in the Colonies. The most remarkable of these Papers is inclosed.* This was distributed along the Post Roads by the Post Riders. I examined the Post Master in this Place to know how this came to be done. He assured me that it was without his knowledge, That he had examined the Post Riders & found that one or more Bundles of them were deliver'd at Woodbridge in New Jersey to the Post Rider by James Parker Secretary to the General Post office in America. Parker was formerly a Printer in this Place, & has now a Printing Press & continues to print occasionally. It is believed that this Paper was Printed by him. The Gentlemen of the Council think it prudent at this time to delay the makeing more particular Enquiry least it should be the occasion of raising the Mob, which it is thought proper by all means to avoid.

* No 1 of the Constitutional Courant, or Join or Dye.

From Sir Harry Moore's Letter to me of the 9th of August, I have reason to expect him every Day, which I heartily wish may soon happen that I may deliver up the Administration to him in perfect quietness, which I have much at heart to do.

The Committees of the several Colonies are now in this Place—What they are doing or design to do I know not. I am with the greatest Respect & Submission, Sir

TO HIS EXCELLENCY GEN^L. GAGE.

Fort George, Oct^r. 17th 1765.

SIR,

I have the honour of your Excellency's Letter of the 15th in relation to some Recruits which Col. Bradstreet alleges he raised for the New York Battalion in the year 1764. When I formerly enquired into this affair, I found that these Men had not been Muster'd or Return'd as part of the New York Battalion and it appears to me they could not have been Inlisted for that Service as the Wages Col. Bradstreet promised them was so very different from that allowed by this Government to the Troops they Paid.

I have not a Copy of my Letter to your Excellency which you refer to, but I certainly would not authorise greater Wages being Promised to the Men than what the Assembly had provided for. Nor can I now take upon me to Order the Pay Masters to Pay Men who were never included in the Returns made to me or them of the New York Battalion. The Act of Assembly does not subject the Pay Masters to my Orders in this Point. I hope you will be convinced Sir, that it is not in my power to comply with your desire.

I am much obliged to your Excellency for the notice you have taken of Richardson's Complaint, and am With great Regard and Esteem

TO THE MASTER OR COMMANDER OF THE SHIP OR
VESSELL ON BOARD OF WHICH THE STAMP'D PAPERS
&c. ARE FOR THE PROVINCE OF NEW YORK.

From the repeated public Declarations that have been made in this place & throughout the Provinces that the Stamp'd Papers &c. which are expected from England in consequence of a late Act of Parliament would be destroyed on their arrival here: which Declarations have been back'd in some Places with most violent & riotous proceedings, it has become necessary for me to take every precaution in my power to preserve them, and to prevent if possible even an attempt to execute a Scheme so unlawfull & ruinous. For this purpose I have requested Captain Kennedy to Order his Majesty's Ships under his command to give the necessary assistance and protection to the Ship on board of which the stamped Papers &c are. And haveing given you this notice of the great danger your Cargoe will be in unless the Ship is protected untill the Stamped Papers are Secured, I must desire you to put your ship under the protection of his Majesty's Ships of War, and to remain under their Protection till you shall have further directions from me.

Fort George, New York
October 18, 1765

Delivered this day to D^r Blair of the Coventry.

TO THE R^t HON^{BLE} H. S. CONWAY, ESQ. PRINCIPAL
SECRETARY OF STATE, &c.

New York, Oct^r 26th 1765.

SIR,

The people of this Place haveing openly declared their intentions to destroy the stamped Papers design'd for this Province, I desired the Captⁿ of his Majesty's

Ships of War now in the River to protect the Ship in which they should come. For this purpose a sloop was placed at Sandy Hook, and a Frigate midway between that & this Place, while the Coventry laid before the Town. By this care the ship Edward, Davis Commander, having ten Packages of stamped Papers on board was brought to an anchor under the Guns of the Fort & protection of his Majesty's ships. When this was done on Thursday last I summoned the Gentlemen of the Council for their advice in what manner the stamped Papers might be most safely brought on shore. Tho' I sent repeated Messages to them only three attended of seven who were in the Place, viz: Mr. Horsmanden, Mr. Smith and Mr. Reid; the two first of them Judges of the Supreme Court. They declined giving any advice without a full board, and for a reason said that by detaining the ship the Governor & they who advised would subject themselves to the private action of every Man who had Goods on board, & tho' the Jury should give only one shilling Damages, the costs of suit would amount to a very large Sum. After arguing a long time they at last advised me to hire a sloop to take the Goods on Board, till the Packages of stamped Papers could be come at: but no Sloop could be hired at any rate. I suspected they were desirous I should Press a sloop that thereby they might have an opportunity to begin a Riot. I therefore desisted from that design & desired the Captains of the Kings Ships to assist in removing the Goods to make room to have the Packages with the stamped Papers taken out; accordingly all of them are taken out except three which are so deep in the hold with other Goods that they could not be taken out without putting the Ship in danger in case of the least Gale of Wind. I am the more particular in this account that you Sir may have some conception of the difficulties I labor under from want of assistance where I have the best reason to expect it. At the same time I have the pleasure to assure you that the officers of the Navy & Army with the

greatest alacrity give me every assistance I desire. I am resolved to have the stamps Distributed if possible by the time the act directs, but in this I have met with an unexpected difficulty. There is not a single Line or the least direction come in this ship from the Commissioners of the Stamp office, not so much as a Bill of Lading, nor can I discover the Contents of any one of the Packages without opening of them, but I hope this will be removed by Sir Harry Moore's arrival before the 1st of November. The Night after the Ship arrived Papers were posted up on the Doors of every public office, & at the corners of the Streets, one of which I inclose, all of them in the same words. His Majesty's Ministers are the best judges of the means to curb this licentious factious spirit. If it be done in the Trading Towns the Country will follow. The Lawyers who have raised this Seditious spirit cannot be curbed without proper Judges.

Since the Matter of Appeals was disputed before the Council of this Province last Winter, infamous scurrilous Papers have been weekly published in this Place, without the least regard to truth, full of all the falsehoods that malice can invent in order to render me Odious in the Eyes of the People, and tho' I am confident they have not in the least been able to hurt my private character with those who know me, yet they make it very evident that the authors are desirous to do me every injury in their power. I know 3 or 4 popular Lawyers are the authors of these weekly Papers & from what the Judges said, as before mentioned, I am persuaded they will endeavour to have every Shipper on board the *Edward* to sue for detaining the Ship. There may be 100 shippers, and the cost of suit on each will amount to at least £20, and private suits cannot be stopped by the Government. This would make a sum that I am not able to bear. From this you may see Sir the reason I had in my Letters to the Earl of Halifax of the 13th of December & 23^d of January to beg his Majesty's Protection.

When the administration of Government is not in the hands of the Lieutenant Governor of this Province, he has not a single farthing to support the honor of his commission, a case I am assured no where else to be found. After a Gentleman has had the honour to be Commander in chief, he must be desirous of living in the same place with some more dignity than otherwise requisite in his private State, & I think it for his Majesty's service he should do so. I therefore humbly beg of you to submit my Case to his Majesty's consideration which I do with more confidence, because I have not incurr'd any Man's displeasure otherwise than by adhering to my Duty in observing the King's Instructions. I have by doing so been deprived of many advantages I otherwise should have had, & I have a numerous family exposed to the Malice of wicked Men who must remain in this Province. Under such circumstances it requires some degree of Resolution to adhere to my Duty. I am with the greatest Regard & submission, Sir

TO THE HON^{BLE} COMMISSIONERS OF THE STAMP OFFICE,
LONDON.

Fort George. New York, Oct^r 26th 1765.

GENTLEMEN,

M^r James McEvers haveing been deterred from undertaking the office of Distributor of Stamps in this Province, the whole care of the stamped Papers has devolved upon the Lieut. Governor, who is Commander in Chief. He thinks it proper that you should be informed that Captⁿ Davis of the ship Edward has delivered three Boxes and two Bails of stamped Papers marked N^o 1. J. M^E. NEW YORK, which the Governor has lodged in this Fort, and likewise one Box and one Bail Marked N^o 1. J. I. CONNECTICUT. Three other Packages which the Captain says he took in cannot be

come at till other Goods are removed out of the ship. The Governors House in the Fort is the only Place where the stamped Papers can be secured from the rage & fury of the People which has been most unhappily raised to such a pitch that the Governor found it necessary to have the assistance of his Majesty's ships of War for Landing and securing the Papers—by this caution it has been effected without the least opposition or Riot. Mr McEvers informs the Governor that he has not received any Bills of Lading Letters or Instructions concerning the stamp'd Papers, nor has any come to the Governors Hands which lays him under an unexpected difficulty. However he is determined to do everything that his duty requires of him for executing the stamp act, & that the Papers shall be ready to be delivered by the time fixed by the Act. It is necessary that I now inform you Gentlemen that I am the Lieut Governor's son, & act as his private Secrettary. I must be employed under my father in taking care of & distributing the stamped Papers &c and I shall incur that danger & Odium which appears to every Man in this Place to be of most serious consequence. If Sir Harry Moore does not arrive before the 1st of November this will probably be my situation till your pleasure is known. Perhaps it will appear reasonable to you Gentlemen to favor me with an appointment of Distributor of Stamps for this Province, that I may likewise enjoy the advantages of that office when it is quietly submitted to, as no doubt it will be in a few months. I have the honour to be personally known to Sir Jeffery Amherst, and to Mr Peter Collinson, Merch^t London, by correspondence with him. You may depend on my executing every Trust reposed in me with the greatest punctuality, & that I shall endeavour to give you the utmost satisfaction in every Command you shall please to favour me with.

I think it unnecessary to enter into a particular detail of the violent, licentious measures that have been taken here to prevent a submission to the Stamp act.

The Gentlemen who have been driven to resign their offices that they might preserve their Property & Persons will very probably have been particular on this head. The stamped Papers have been quietly Landed under the Wing of an armed force; but the same dangerous spirit is still kept up & irritated by most malicious inflammatory Papers daily spread among the People, exciting them to destroy the Houses Persons & Effects of whoever Sells or Buys a stamp. This has occasioned so universal a dread that I am well assured no man of property in this Place could now be prevailed on to take the smallest part in executing the act. The neighbouring Provinces have their Eyes fixed upon this Province, & whatever is done here will determine their conduct on this occasion: it is therefore of great importance that the stamped Papers should be distributed here at the proper time. If Sir Harry Moore does not arrive before the 1st November this momentous affair will lay entirely upon my Father, and I under him must be exposed to the fury of the Populace whom designing, licentious Men have excited & blown up to a dangerous highth. In such a Situation there will be the greatest necessity of your Countenance & Protection, & I hope if I run the risk at this critical time, I shall be favoured with an appointment from you hereafter. I am with great Regard, &c

DAVID COLDEN.

TO JARED INGERSOLL, ESQ., NEW HAVEN.

New York, Fort George, Oct^r 28th 1765

SIR,

The Gove^r. Orders me to inform you that Captⁿ Davis has brought over three Packages of Stamp'd Papers Marked for Connecticut, which are now lodged in the Governor's House in the Fort. The Gaspey Cutter is now here & is a very fitt vessell for carrying the Papers to you if you can prevail upon Captⁿ Kennedy to order

her to do it. We hear more Stamped Paper is on board three Ships daily expected here. I am with great Regard, Sir,

DAVID COLDEN.

TO JOHN CRUGER, ESQ., MAYOR OF THE CITY OF NEW YORK.

Fort George October 31. 1765.

SIR,

The bearer hereof John Bridge informs me that he was told this morning by one John Ketcham a Shoemaker in this City that there was a design to bury Major James alive this Day or Tomorrow. I have likewise been otherwise informed that a Riot or Tumultuous Proceedings were intended this day or Tomorrow. I must desire you will examine Bridge & Ketcham; and that you & the other Magistrates will do every thing in your power to prevent a Mob or Riot, and to preserve the Peace & Order of the City, and in so doing, in case it be requisite, I shall give you all the assistance in my power to maintain the Peace. I am with great Regard, Sir, Your most Obedient humble servant,

C. C.

TO ARCH^d KENNEDY ESQ.

Fort George Nov. 1, 1765.

SIR,

The Magistrates of this City have enform'd me that they are apprehensive of a Mob this night. As we have not a sufficient number of the Regular Troops to secure the Fort, & at the same time to suppress any sedition, I must beg the favour of your sending the Marines on board his Majesty's Ships to reinforce the Troops in the Fort. I have the honor to be

TO THE MOST HON^{BLE} THE MARQUIS OF GRANBY.

New York, Novem^r 5th 1765.

MY LORD,

The unparallel'd Insults on his Majesty's authority, & the loss Major James of the Royal Reg^t of Artillery has suffered of every thing he has in this Place, I doubt not will excuse this trouble from a person unknown to your Lordship. His sufferings are only occasioned by his zeal in doing his Duty in putting this Fort in the best position of defence for which Reason he is threatened with a shameful Death I think it may be of service that he go home to inform the King of the present state of this Province.

I expect the Fort will be stormed this night—everything is done in my power to give them a warm reception. I hope not to dishonour the Commission I have the honour to bear, & that I may merit some share of your Lordships Regard. I am with the greatest Respect

TO THE R^T HON^{BLE} H. S. CONWAY, ESQ. &c.

New York, Nov. 5, 1765.

SIR,

In a day or two after the date of my Letter of the 26th of last Month which I had the honour to write to you, the Packages of stamp'd Papers were landed from his Majesty's ship Garland at noonday without a Guard or the least appearance of discontent among the People. This gave me great hopes that I should be able to deliver up the administration of Government to Sir Henry Moore as I had inform'd you I had much at heart to do.

But on the evening of the first day of this month the Mob began to collect together, & after it became dark, they came up to the Fort Gate with a great number of

boys carrying Torches & a scaffold on which two Images were placed: One to represent the Governor in his grey hairs, & the other the Devil by his side. The scaffold with the Images was brought up within 8 or 10 feet of the Fort Gate with the grossest ribaldry from the Mob. As they went from the Gate they broke open my coach house, took my chariot out of it, & carried it round the Town with the Images & return'd to the Fort Gate from whence they carried them to an open place, where they had erected a Jibbett within 100 yards of the Fort Gate, there hung up the Images. After hanging some time they were cut down, & burnt in a fire prepared for the purpose together with my Chariot, a single Horse chair & two sledges, our usual Carriages when Snow is on the Ground, which they took out of my Coach House. While this was doing a great number of Gentlemen of the Town, if they can be called so, stood round to observe this outrage on their King's Governor. The Garrison was at the same time on the Ramparts with preparation sufficient to have destroyed them, but not a single return was made in words or otherwise from any Man in the Fort while this egregious Insult was performing. You may be assured Sir that the People of this Place have not had at any time the least provocation from me, either in words or any kind of action other than the receiving the Packages with the stamped Papers into the Fort, & putting the Fort in a posture of Defence after open and bold Threats were made of taking it by Force, tho' every artifice was used to make me say or do some rash thing.

When I make one concession, another more insolent is demanded as I expected would be. It is given out that the Mob will storm the Fort this night. I am not apprehensive of their carrying their purpose, probably it may be attended with much bloodshed, because a great part of the Mob consists of Men who have been Privateers & disbanded Soldiers whose view is to plunder the Town.

This goes by Major James of the Royal Artillery, who with much zeal for his Majesty's service put the Fort in the best posture of defense he could, for which reason the Mob, the same night they insulted their Governour, broke open his house, burnt all his furniture, wearing cloaths & everything in it to a great value at the same time threatening to take away his life in the most shameful manner. He will be able Sir to inform you of everything that has passed, & knows the authors of these Rebellious Proceedings.

I hope by the next Packett to give a better account of this Province than I can do at present, & to convince you of my regard to my Duty in the Commission I have the honour to bear. I am with the greatest respect, Sir,

The inclosed Minute of Council shews what concessions I have made.

TO HIS EXCELLENCY GEN^L GAGE.

Fort George, Nov. 5, 1765.

SIR,

Inclosed is a Minute of Council with the Councils advice to me this Day, in which you will see my thoughts on the subject when I demanded the Councils advice. The delivering the stamp'd Papers on the threats of a Mob, who may still make further demands greatly affects the dignity of his Majesty's Government; & may have a tendency to encourage perpetual mobish proceedings hereafter Your Opinion & advice therefore I think necessary before I can determine or satisfy my own Mind, in following the advice of Council. I am, &c.

I beg an answer from your Excellency as soon as possible—the Mayor & Corporation are waiting for my answer.

Fort George, Nov. 5, 1765.

MR. MAYOR & GENTLEMEN OF THE CORPORATION.

In consequence of your earnest Request and engaging to make good all such sums of Money as might be raised by the Distribution of such of the Stamps sent over for the use of this Province as shall be lost, destroy'd or carried out of the Province, and in consequence of the unanimous advice of his Majesty's Council, and the concurrence of the Commander in Chief of the King's Forces and to prevent the effusion of Blood & the calamities of a civil War, which might ensue by my withholding them from you, I now deliver to you the Packages of stamp'd Paper and Parchment that were deposited in my hands in this his Majestys Fort, and I doubt not you will take the charge and care of them conformable to your engagements to me. I am with great Regard, Gentlemen, Your &c.

COPY OF THE MAYOR'S RECEIPT.

Received of the Hon^{ble} Cadwallader Colden, Esq. his Majesty's L^t Gov^r. and Commander in Chief of the Province of New York, Seven Packages containing Stamp'd Paper & Parchment all marked N^o 1, J. M^c E, New York which I promise in behalf of the Corporation of the City of New York to take charge & care of, and to be accountable in case they shall be destroyed, or carried out of the Province as particularly set forth and declared in the Minutes of the Common Council of the said Corporation of this Day. Witness my hand in the City of New York this fifth day of November 1765.

JOHN CRUGER, MAYOR.

Witness

L. F. CAREY, Major to the 60th.

JAMES FARQUHAR.

TO MAJOR THOMAS JAMES OF THE ROYAL REG^t OF
ARTILLERY.

Fort George, Nov. 6th 1765.

DEAR SIR,

It gave me much concern that I could not answer the oblidging Letter I received from you yesterday; no man knows better than you do the situation that I have been in of late, & how every moment of my time has been engaged with affairs of the greatest weight. I take the present first leisure moment I have had to give you Sir, my hearty thanks for the zealous assistance you have afforded me in forwarding his Majesty's service in everything that lay within your Department. On which account alone I am persuaded you incurr'd that resentment of the People which they have vented in the most outrageous, destructive & inhuman manner.

When I had last the pleasure of seeing you, you know we were amused with an account that the principal Inhabitants had declared themselves satisfied, and were determined to unite & quell the Mob: but it seems only a small part of the Inhabitants thought fit to join in this laudable Plan. In the forenoon yesterday the Common Council of the City presented an Address to me Requesting that in order to restore Peace to the City & to prevent the effusion of Blood, I would deliver the Stamp'd Paper into the care of the Corporation, who in that case undertook to protect them. I was surprised at the Proposition, but upon their adding a Clause whereby the Mayor & Corporation became engaged for the full amount of the Paper &c and Duty, in case they were lost, destroyed or carried out of the Province, I consented to take the advice of his Majesty's council upon it. I introduced this matter to the Council by observing to them that if the power of the Corporation alone was sufficient to preserve the Stamps, it must be much more effectual when added to the

strength of this Garrison. That yielding to the Demands of the populace would draw the Government into still greater contempt, and encourage them in repeated Demands. The Council declared that the City appeared to be in perfect annarchy, and the power of Government either Military or Civil insufficient—that the defense of the Fort would involve the destruction of the City—that they were sensible I had done every thing consistent with my Duty, prudence & humanity to carry the Law into Execution, that more was not in my power, they therefore advised me to deliver the stamps to the Corporation. I could not be satisfied on so extraordinary an occasion without taking the advice & opinion of Genl Gage, which concurring with that of the Council, I could not stand single, and last Evening I delivered the Packages to the Mayor & Corporation. They were carried to the City Hall, and remained safe with a very trifling Guard indeed upon them. The Mob dispersed immediately and remain quiet. Can anything give a stronger suspicion who they were that composed the Mob, and under whose direction they acted?

Since I wrote so far, I received your Memorial of this Date. I shall transmit the most particular account of everything that has happened here to his Majesty's Secretary of State by the Packett which sails next Sunday, and you may be assured Sir, I shall in the strongest terms represent the outrageous insult and great loss you suffered from the Mob on Friday night. I have already done it in the Letters I sent to you yesterday for the Secretary of State & the Marquis of Granby. I shall have time to write more fully by the Packett. Justice requires that I should make known the great loss you have suffered from the unprovoked rage of the People; and my esteem & regard for you will make it a singular pleasure to me to hear that you have received an ample reimbursement for your losses; and from his Majesty those marks of his favour which you Merit & services intitle you to.

Pray present my hearty Compliments to M^r. James. I wish you a good passage & every happiness you desire. My sons beg you will receive their Compliments & best wishes. I am, Dear Major, with much affection & sincerity, Yours &c.

TO THE R^t H^{ble} H. S. CONWAY, Esq.

New York, Nov. 9, 1765.

SIR,

The last I had the honour to write to you of the 5th of this Month was by Major James of the Royal Regiment of Artillery, who at my desire is gon in a Ship then ready to sail for London, He can give a more particular account of what has happened here, than can be done in writing. He has suffer'd the loss of all he had in this Country, on account of his zeal for his Majesty's service, in his own Department, by putting his Majesty's Fort in a State to make a proper & necessary Defence. The inclosed account of his loss published by the Leaders of the Mob shews how great it is. From all I know of him, or have heard from those who are well acquainted with him, he is a humane & benevolent Man, and has not given the least cause for this savage Resentment.

I now, Sir, send you the most authentic account I can of my conduct on this extraordinary occasion, in the Minutes of Council inclosed. It would tire out your patience were I to enter into a detail of the Indignities openly offered to his Majesty's authority. They have in some measure saved me the trouble by the News Papers published last Thursday in defiance of the act of Parliament, tho' it contains many falsities as all their Papers do. On Tuesday the 5th Instant, I received a Deputation of the Merchants of this City, by a considerable number of them, & an Address of the Corporation, and of several other private Per-

sons who I suspect to be concerned with the authors of the present Sedition imploring my Compassion. They knew that had every man in the City, on Tuesday last, joined in the attack of the Fort as was openly & boldly Threatned, they could not have carried it, but that the greater the numbers who joined in it the greater their desolation must have been. At the same time I was confident that great numbers in the City were far from approving of the public proceedings tho' it was not safe for them to declare their sentiments.

What I have at last yielded to, I should gladly have done at the time the stamp'd Papers were imported, as I have no kind of direction relating to them, but I should have been thought Mad at that time to have proposed it to them. Has not the Mayor & Corporation by taking the stamp'd Papers voluntarily into their Custody assumed the office of Distributor of Stamps? It evidently appears now, who were the conductors of the Mob, by its immediately ceasing in every appearance as soon as the Packages were Delivered to the Mayor & Corporation.

The Leaders of the Mob issued their Edicts from time to time by affixing their Placharts in the Merchants Coffee House & on the Corners of the Streets, where they remained whole Days & Nights. I transmit copies of two of the most remarkable of them, the originals I have in my Custody & I preserve them, as the handwriting, in both the same may lead to a discovery. By the last which is a kind of Proclamation of Peace, they disown every authority that is not derived from their Representatives. On this principle only was the demand made of haveing the Stamp'd Papers delivered to the Corporation & by this they hope to preserve their influence.

In the present state of this City, it is certain I can procure no legal Evidence, tho' it be as evident that was the Course of Justice free, the Authors and Conductors of the present Sedition, cannot remain undiscovered; but I have the strongest presumption from

numerous Circumstances to believe that the Lawyers of this Place are the Authors, Promoters & Leaders of it. People in general believe it, and many must with certainty know it. I must add that all the Judges have given too much Countenance to their Proceedings, one of them more than the others. In my Letter of the 22^d of February last to the Earl of Halifax, I informed his Lordship of a dangerous association of the Profession of the Law which has subsisted some years, to which I must beg leave to refer.

People in general are averse to Taxes of any kind. The Merchants in this Place think they have a right to every freedom of Trade which the subjects of Great Britain enjoy. But the Inhabitants of the Country are absolutely free of the Seditious spirit which rages in this Town. Could I be assured that no villanous assassin would come from this Town, I should think myself as secure at my country house as in the Fort. The public assertions that the people of this Town were joined by numbers from the Country is absolutely false. If the Merchants should not send for Goods as given out, they will raise their price, & thereby provoke the Country Inhabitants.

I dare not presume to give any Opinion on a Matter in which every Colony on the Continent is more or less involved. I believe the principal view is to intimidate the Parliament, but if be thought prudent to enforce their authority, I am with humble submission of opinion that the People here dare not oppose a vigorous Resolution of the Parliament of Great Britain. If Judges be sent from England with an able Attorney General & Sollicitor General to make Examples of some very few this Colony will remain for many years quiet. One complete Regiment with the Ships of War now in this Port and the Garrison at this time in this Fort to assist the civil officers, I believe may be sufficient for this purpose. In the present state of our Courts of justice all private Property for some years past, as well as the Rights & authority of the King are more

precarious than can be easily imagin'd. But in giving my sentiments, I do it with the greatest diffidence of my own judgment. The King's Ministers without doubt will be better inform'd by the Governors of the other Colonies. Sir Jeffery Amherst is the best judge in case of vigorous Measures.

Sir Henry Moore has been daily expected above a fortnight past I shall continue my utmost endeavour to deliver up the administration in Peace & Quietness that the last part of my administration be of no discredit to the preceeding part of it, and in hopes of obtaining the honour of his Majesty's approbation which would make me very happy.

May I obtain some share of your Regard with the honour of being with the greatest Respect, Sir,

COPY OF A PAPER SENT TO THE SECRETARY OF STATE
—ENDORSED—A NARRATIVE OF SOME FACTS RELATIVE TO M^r COLDEN, OCCASIONED BY A LIBELL PRINTED IN NEW YORK, NOV. 4, 1765, WHICH IT IS BELIEVED THE PRINTER WAS *really* COMPELLED BY FORCE TO PRINT.

M^r COLDEN the present Lieut. Governor of New York, having been abroad in Europe and America, near six years, returnd home to Scotland in the year 1715, and went down from London in company with Lord Jedburgh the present Marquis of Lothian, with whom M^r Colden had the honour of an acquaintance from their childhood. Lord Jedburgh who was a Colonel in the Guards, went down to Scotland at this time to raise volunteers for the King's service against the Rebels. Sometime after their arrival in Scotland M^r Colden while he was in church on a Sunday afternoon received a Letter from Lord Jedburgh informing him that Brigadeer M^rIntosh was Landed near Leith with 1500 Highlanders, & desiring M^r Colden to raise all the vol-

unteers he could & to meet his Lordship next Day at Kelso. Accordingly M^r Colden next day carried above 70 Volunteers into Kelso, the greatest number that any one Man brought into that Place at that time. He continued there until Lord Jedburgh advised them to disperse, on the near approach of the Highlanders, Lord Kenmare & M^r Foster, who all joined at Kelso the next Day. M^r Colden believes that the present Marquis of Lothian may remember these Facts.

M^r Horsmanden (the present chief justice of New York) a Barrister at Law, in very necessitous Circumstances, had some offices in the Law given him in charity for his support, and at a time when a virulent faction was excited against Governor Clinton, whom M^r Colden supported according to his Duty as one of the Council, M^r Horsmanden joined with that faction, in consequence of which M^r Clinton removed him from his Employments. After which M^r Horsmanden in a scurrilous Party Paper called M^r Colden the *Rebell Drummer* giving that malicious turn to the above story, which he had probably heard from M^r Colden some years before, while he had been hospitably entertained for several weeks at M^r Colden's house in time of his distress. From that foundation the same Libell has been revived on the present occasion.

TO MAJOR THOMAS JAMES OF THE R. ARTILLERY.

Spring Hill December 11th 1765.

DEAR MAJOR,

I shall long to hear of your safe arrival with M^{rs} James in good health, & that you have that reception you have reason to expect, & I hope you have Received. I write no particulars of what has happened since you went, as no doubt you will have them all from other Friends who remain in Town. I left it the 5th day after Sir Henry Moore arived, & retired to this Place. My good friends the Gentlemen of the Artillery &

some others accompanied me as far as Jamaica, & dined with me, and have met me there every Week since, where you never are forgot. Tho' we have passed our time there in innocent chearfulness, without one Word of Politics, I hear the malicious Devils have a Mind to disturb us. May you enjoy undisturb'd Pleasure with your friends.

I hope the Crown will generously make up all your losses which you suffered by performing your duty in his Majesty's Service & which you could not have suffered had the Magistrates performed their Duty. The Crown may be reimbursed either by the Magistrates or by the Corporation who are rich in lands and rents, but this must be done by act of Parliament. It would be a jest for you to expect Relief in a course of Justice here. It is too plain that even an act of Parliament will not be sufficient without a military Force to enforce it; in which case the Military Gentlemen ought to have their Duty clearly explained to them. If they are to learn it from the Lawyers you know what will be the consequence.

I flatter myself that you will not think it a trouble to inform me of every thing you learn relating to this Province or what you think may be of use to me to know. You may depend upon every thing in my power which may be of use to you.

Pray make my Compliments with the greatest Regard to M^{rs} James—May she have for the future more pleasure than she proposed to herself in her Summer Houses & Gardens which the Sons of Liberty & Property in New York so wickedly destroy'd, and with Impunity. I am with the most sincere & affectionate Regard, Dear Sir

TO THE R^T HON^{BLE} HENRY SEYMOUR CONWAY, PRINCIPAL SEC^Y OF STATE, &c.

New York, 13th Dec^r 1765.

SIR,

After the Packages of stamp'd Papers & Parchments were delivered to the Mayor & Corporation as I had the honour to inform you by my letter of the 9th of last Month, the City remained quiet & I had the pleasure of delivering up the Administration to Sir Henry Moore on the 13th in as much quietness as could be expected in the present situation of the public affairs.

Sir Henry on his arrival told me that the King had Ordered him to go immeadiately to his Government without waiting for his Instructions & therefore desired me to give him his Majesty's Instructions to M^r Monckton, which I did at the same time I delivered the Seals.

The fifth day after his arrival I retired to my Country House,—perceiving that I could not be of use, I was very glad to be at ease.

He takes every method to ingratiate himself with the People, with what success in allaying the Seditious Spirit will appear from the public transactions. The Fort is dismantled, everything which Major James introduced of artillery stores & Gun Powder removed out of it.

New York, by its situation, the great quantity of artillery in it, and of ammunition and small arms 14000 in the Kings stores may require the more immediate attention of his Majesty's Ministers. Whatever happens in this place has the greatest influence on the other colonies. They have their Eyes perpetually upon it & they govern themselves accordingly. Sir Jeffery Amherst knows this place well & the disposition of the People in it. He can supply every defect in my information.

By the inclosed Printed Minutes of the Assembly it appears that M^r Justice Livingston one of the Judges of the Supreme Court and Heir to one of the largest Land Estates, has been a principal Director in opposition to the Execution of the act of Parliament for laying a stamp Duty in the Colonies, & of all the Consequences of that Opposition. Many other incidents confirm this.

The Copy of my answer to General Gages Letter of the 31st of August, the substance of which is entered on the Minutes of the 4th of Sept^r was somehow omitted to be sent. You may observe Sir from my answer that I then expected little assistance from the Magistrates in suppressing Riots & Tumults—the event has proved that I did not mistake in my Judgment. But while I have the justest Reason to complain of the want of assistance where I had the best right to expect it, I must in justice to M^r Banyar D. Secretary of this Province, assure you Sir, that in every thing in his Department, he has assisted me with the greatest alacrity & with his most friendly advice.

Since I retired that I may be as usefull as it is in my power to be, I have put in one view the substance of what I formerly wrote to the Earl of Halifax & the Plantation Board, of the state of this Province, & of what has lately happened; in hope that it may be of use in forming a Judgment of the rise and foundation of the present seditious Spirit, & for discovering the persons who are the authors of it.

The dependency or Independency of the Colonies is at its crisis. Whatever resolutions are taken on the extraordinary Events which have happen'd in America, I flatter myself you will be convinced that in all my proceedings I have had my Duty only in view, while I evidently saw that it must be attended with great prejudice to the private Interest of myself & a large family who must live among a people strongly infatuated at this time by the malicious & virulent Papers continually published and dispersed assiduously

among them. My resolution at my age had a heavy trial under numerous unexpected difficulties. Allow me Sir to repeat what I wrote in my last, that his Majesty's Approbation of my Weak endeavours for his service, will make me at last happy. I hope likewise to obtain some share of your Regard, with the honour of being, Sir, &c.

STATE OF THE PROVINCE OF NEW YORK.

(Sent to the Sect^r of State and Board of Trade.)

The People of New York are properly Distinguished into different Ranks.

1st The Proprietors of the large Tracts of Land, who include within their claims from 100,000 acres to above one Million of acres under one Grant. Some of these remain in one single Family. Others are, by Devises & Purchases claim'd in common by considerable numbers of Persons.

2nd The Gentlemen of the Law make the second class in which properly are included both the Bench & the Bar. Both of them act on the same Principles, & are of the most distinguished Rank in the Policy of the Province.

3rd The Merchants make the third class. Many of them have rose suddenly from the lowest Rank of the People to considerable Fortunes, & chiefly by illicit Trade in the last War. They abhor every limitation of Trade and Duty on it, & therefore gladly go into every Measure whereby they hope to have Trade free.

4^{thly}—In the last Rank may be placed the Farmers and Mechanics. Tho' the Farmers hold their Lands in fee simple, they are as to condition of Life in no way superior to the common Farmers in England; and the Mechanics such only as are necessary in Domestic Life. This last Rank comprehends the bulk of the People, & in them consists the strength of the Province. They

are the most usefull and the most Morall, but allwise made the Dupes of the former; and often are ignorantly made their Tools for the worst purposes.

The share which these Ranks have severally or unitedly taken in the public transactions in 30 years past, is necessary to be considered in order to form an Idea of the present state of the Province.

The great Tracts of Land mentioned in the first class were not, as usual in other cases survey'd before the Grant, the Contents of them cannot be known from the Description in the Grant. They are bounded by Rivers, Rivulets, Hills, Falls of Water, Rocks &c whose Names are expressed in the Indian Language known at the time of the Grant to very few Christians. These Names, tho' supposed to be proper Names of Places, are really Common Names in the Indian Language signifying a River or Hill or Fall of Water. Thus Ticonderoga tho' to us the proper Name of the Fort between Lake George & Lake Champlain signifies the place where two Rivers meet, & many places are called by that Name in the Indian Language. All of them are granted on trifling Quit rents, in comparison to the Rents reserved generally on other Lands granted at the same time or in earlier Times. Strong suspicions of Fraud are apparent on the face of these Grants and more so in the purchase of the Lands from the Indians on which they are founded: & perpetually complained of by the Indians.

The uncertainty of the Grant, both as to the quantity of Land & Boundaries of the Tract Granted, which in Law invalidates the Grants of the Crown turns greatly to the advantage of the owners of these great Tracts by the artifices they make use of to enlarge their Claims perpetually. Thereby they are in continual Contention with the Farmers contiguous to them, who have Purchased bona fide & improved the Lands, & by the Expence of Law Suits many of the most industrious Farmers are ruin'd. The truth of what is now asserted is in several instances made apparent by

the Lieut. Governor's Letters of the 11th of October & November 1764, 13th of April, 31st of May & 7th of June, 1765, to the Plantation Board and the Maps & Papers Transmitted with them.

The Gentlemen of the Law, both the Judges & principal Practitioners at the Bar, are either Owners Heirs or strongly connected in family Interest with the Proprietors. In general all the Lawyers unite in promoting Contention, prolonging Suits & encreasing the Expence of obtaining Justice. Every artifice & chicanery in the Law has been so much connived at, or rather encouraged that honest Men who are not of affluent fortunes are deterr'd from defending their Rights or seeking Justice. The People of this Province are truly in the state in which the People of England were, when their Properties were determined in the County Courts as described by Chief Justice Hales—"All the Business of any moment was carried on by Factions & Parties—every Man that had a Suit there, Sped according as he could make Parties, & Men of great power & interest in the County, did easily overbear others in their own Causes, or in such wherein they were interested, either by relation of Kindred, Tenure, Dependance or Application."

People in general Complain of these Things & lament the state of Justice, but yet the power of the Lawyers is such that every Man is affraid of offending them and is deterr'd from makeing any public opposition to their power & the daily increase of it. The Lieut. Governor sensible that he could not do his Majesty or the People committed to his care more eminent piece of service than by reforming the abuses of the Law & the dangerous power of the Lawyers took every opportunity during his administration to promote a Work as necessary as Salutary—this drew upon him the most virulent & malicious Resentment of the Lawyers which they have pursued in a manner that shews they intend, that by the ruin of the only Man who has ventured publicly to oppose them, all others shall be deterred.

The Gentlemen of the Law some years since entered into an association with intention among other things to assume the direction of Government by the influence they had in the Assembly, gained by their family connections and by the profession of the Law, whereby they are unavoidably in the secrets of many Families—many Court their Friendship, & all dread their hatred. By these means, tho' few of them are Members, they rule the House of Assembly in all Matters of Importance. The greatest number of the Assembly being Common Farmers who know little either of Men or Things are easily deluded & seduced.

By this association, united in interest & family Connections with the proprietors of the great Tracts of Land, a Domination of Lawyers was formed in this Province, which for some years past has been too strong for the Executive powers of Government.—A Domination founded on the same Principles and carried on by the same wicked artifices that the Domination of Priests formerly was in the times of ignorance in the papeish Countries. Every Man's character who dares to discover his Sentiments in opposition to theirs is loaded with infamy by every falsehood which malice can invent, and thereby exposed to the brutal Rage of the Mob. Nothing is too wicked for them to attempt which serves their purposes—the Press is to them what the Pulpit was in times of Popery. No man who Reads the Papers publish'd in New York for some time past, & what has happen'd there in consequence of them, can doubt of what is now said, however improbable on first sight it may appear to be.

The good natured Governor Clinton was cajoled into Granting the Judge's Commissions during good Behaviour. After the Profession of the Law had obtained such security for their power, they more barefacedly exercised it than ever had been done before; & on Mr. Clinton's refusing to comply with all their measures, they served him as the haughty Priests in former times served their greatest benefactors when they opposed

their Priestly Lust of Power. Besides what is before related it is necessary likewise to observe that for several years past the Assembly Grants the Support of Government only from year to year—they increase & lessen the Salaries of all the officers at their pleasure, and the Bill for this purpose is allwise the last Bill passed in the House of Assembly in the Session. The Parliament laying internal Taxes in the Colonies, & paying all the officers of Government as it is suggested they may intend to do, will destroy the great and undue influence which the Assembly has gained over the Administration to the great prejudice of his Majesty's just Prerogative in the Colonies, & it is chiefly for this reason that the popular Leaders so violently oppose the the Act for laying a stamp Duty.

A few Months before the Death of the late King, the Administration of Government came into the hands of the present Lieut. Gov^r. By the Kings Death the Judges Commissions became vacant tho' granted during good Behaviour. The Lieut Governor refused to renew them otherwise than during the King's pleasure, pursuant to the King's Instructions. He was more firmly Resolved in this not only from the sense of his Duty in obeying his Master's Instructions but from the opinion he had of the danger the administration of Justice is in, when no case of importance could come before them in which they could be esteemed disinterested either from their own Tenures, Party or Family connections or similitude of Cases. Nor could Men in this Province of proper character for Judges be found free from such connections. This refusal brought the Lieut. Governor under great difficulties in this administration. The Judges refused to act, & threatned him with the shutting up of the Courts of Justice, and the Assembly refused any supply unless the Judges had their Commissions during good behaviour, and the most abusive virulent Papers against the Governor were publish'd by the Lawyers. But by the Kings appointing M^r Pratt Chief Justice, a stranger in this Province with

a Sallary out of the Quit rents; and the Kings enforcing his former Instructions by an additional Instruction, the other Judges submitted, and the administration went on in its usual tranquility. Mr. Prat lived only long enough to shew the People the great advantages they might expect from an able, honest and disinterested Judge, and to turn the public Antipathy, which had been excited against him into public Esteem—He was received with Contempt and Displeasure—He died Beloved and Regretted as the greatest loss the Province ever suffered.

In October 1764, Waddell Cunningham brought an Appeal before the Governor & Council from a Judgment in the Supreme Court pursuant to his Majesty's 32nd Instruction. The Lieut Governor supported the right of appealing not only in obedience to the King's Instruction as his Duty Required, but likewise from the Opinion he conceived of this being the only legal Method by which the Kings Rights & authority in the Colonies can be secured, & the People can be protected from iniquitous & oppressive verdicts & judgements. The Judges joined with the Practitioners in opposing the Right of appealing with such vehemence as if all had been at stake, & influenced the Gentlemen of the Council to take sides against the Lieut. Governor in a most unbecoming and indecent manner, notwithstanding of which the Lieut Governor under great disadvantages, supported his opinion with every Reason which occur'd to him: being fully perswaded that without the Right of Appealing to the King the Dependency of the Colonies cannot be preserved. The King's authority can only be preserved in his Courts of justice, & without appeal from the Courts in the Colonies, his authority must be precarious. The Rage against appeals, excited by the Judges & Lawyers is of itself a Demonstration of the necessity that appeals be unquestionably Established. For it shews how much they think the admitting of Appeals to the King will weaken or destroy their Associations & Domination. On this account

likewise the Lieut. Governor has incur'd their Hatred & Malice.

On this occasion a weekly Paper under the name of the Sentinell was publish'd in Holt's News Paper, filled with the vilest & most abusive invectives which malice could invent in order to render the Lieut. Gov^r Odious to the People, but as no one fault could be alledged to his prejudice during any time of his administration other than his supporting the Right of Appeals, he bore their malice with patience. It is universally believed that these scurrilous abusive and malicious Papers were wrote by two or three distinguished Lawyers in the City.

When the King's Order in his Privy Council, of the 26th of July arived in September last it revived all the Rage of the Profession of the Law, & they takeing the advantage of the Spirit of Sedition which was raised in all the Colonies against the act of Parliament for laying a stamp Duty in the Colonies, they turn'd the Rage of the Mob against the Person of the Lieut Governor, after all other methods which their Malice had invented for that purpose had failed. The Malice of the Faction against the Lieut. Governor is so evident that their inclination to expose every failing in his administration cannot be doubted, & when they have nothing to charge him with besides his supporting the Right of the Subject to Appeal to the King, it gives the strongest presumption in his favour that they cannot otherwise blame any part of his administration.

In the night of the 1st of November a great Mob came up to the Fort Gate with two Immages carried on a Scaffold: one representing their gray haired Governor, the other the Devil whispering him in the Ear. After Continuing thus at the Gate, with all the insulting Ribaldry that Malice could invent, they broke open the Lieut. Governor's Coach House which was without the walls of the Fort, carried his chariot round the streets of the Town in triumph with the Immages—returned a second time to the Fort Gate, and in an

open place near the Fort, finished their Insult with all the Indignities that the Malice of their Leaders could invent. Their view certainly was to provoke the Garrison, then placed on the Ramparts, to some act which might be called a Commencement of Hostilities, in which case it cannot be said what was farther intended. Being disappointed in this the Mob expended their Rage by destroying everything they found in the House of Major James of the Royal Artillery, for which no reason can be assigned other than his putting the Fort in a proper state of Defence as his Duty in his Department required of him.

While the Lieut Governor was in the Country as usual during the heats of summer he received a Letter from General Gage informing him that the public Papers were crammed with Treason. The Minds of the People disturbed excited & encouraged to Revolt against the Government, to subvert the Constitution & trample on the Laws. That every falsehood that Malice can invent is propagated as Truth to sow dissention & create animosities between Great Britain & the Colonies concluding an offer of such military assistance as the Lieut Governor should think requisite in support of the Civil Authority. The Lieut. Governor immediately answered this Letter with his Opinion that one Battalion would be requisite with the Garrison of the Fort, but that he would immediately return to Town and take the advice of the Council on the subject of his Letter. The advice of the Council appears on the Minutes of the Council transmitted to Mr Secretary Conway by the first Packett after the advice was given. Tho' this advice was contrary to the Lieut Governor's private Sentiments he thought it most prudent to submit the matter to the General. The argument made use of by the Council that it would be more safe to shew confidence in the People than to discover a distrust of them by calling in any assistance to the civil power, in the L^t Governor's Opinion goes too far, as it discouraged every precaution. The event has

shewn that it was not well judged, for it is most probable that had a Battalion of Regulars been brought to New York, all the Riots and Insults on Government had been prevented. The acting with vigour seemed the more necessary as the eyes of all the other Colonies were on New York where the King had a Fort allwise garrisoned with Regular Troops. The General kept his head Quarters there, and two Frigates and a sloop of War were in the Port. When the Lieut. Governor came to Town he found the General had ordered Major James to carry in such Artillery & Military Stores as he thought necessary for the Defence of the Fort; and two Companies of artillery having opportunely arrived at that time from England they had likewise been ordered into the Fort to strengthen the Garrison. Mr James is certainly a Benevolent Humane Man, & had distinguished himself on several occasions in the late War. No objection could be made to him, but his daring to put the King's Fort in a state of Defence, against the Sovereign Lords the People as they stiled themselves, for which offence they Resolved to make him an example of their Displeasure.

Before these additional Defences were made, & while the Garrison consisted only of 44 Privates & two subaltern officers, the Fort could not have been defended against 100 resolute Men, in which case the Gov^r must have submitted to every shamefull condition which the insolence of the Leaders of the Mob should think proper to impose upon him. They certainly had this in view while the Fort remained in its defenceless State. But after it was put in that state of offence as well as Defence, in which it was put after the 1st of November by the Engineers of the Army, the stile of the Leaders of the Mob was changed from Threatning to Deprecating, & they only wanted some Colour for desisting from their Designs to save their Credit with the deluded People. It became evident that the Fort could not be carried by assault, & that in the attempt the town would be exposed to Desolation. In the state the Fort

then was, it was the Opinion of the Gentlemen of the army, that one Regiment in the city would have been sufficient to have subdued the Seditious Spirit which then prevailed.

The Authors of the Sedition place their Security in the number of offenders, and that no Jury in the Colonies will convict any of them. Were it possible that these men could succeed in their hope of Independency on a British Parliament, many judicious Persons think (tho' they dare not declare what they think) we shall become a most unhappy People. The obligation of Oaths daringly profaned—& every Bond of Society dissolved. The Liberty & Property of Individuals will become subject to the avarice & ambition of wicked Men who have art enough to keep the Colony in perpetual Factions, by deluding an ignorant Mob: and the Colonies must become thereby useless to Great Britain.

It may in the last place be proper to observe that the authors of this Seditious spirit in the Colonies have extended their views even to Great Britain in hopes of raising a spirit of Discontent among the Manufacturers there. They publish in the Newspapers that the Importation of British Manufactures are greatly decreased since the Duties on American Trade, & that the Colonies are under a necessity of setting up the Manufactures which they otherwise would import from Great Britain. The importations from Great Britain had surprisingly increased during the war. The lessening of them from what it was in that time is unavoidable 1st from the recalling or Disbanding the greatest part of the Army, but 2^{dly} chiefly to the entire stop to the Trade with the French Colonies who were supplied from the British Colonies while their commerce with France was shutt up. What has been publish'd of the manufactures lately establish'd are absolute falsehoods, & yet they are not ashamed to publish them where they are well known to be such. All the Wool in America is not sufficient to make stockens for the Inhabitants &

the severe Winters in North America renders the production of Wool in any great quantities impracticable.

The Merchants in New York, & some other Places have entered into an Agreement not to import any Goods from England the next year unless the Stamp act is Repealed. This Scheme is calculated solely to influence the People in England—and should it be executed the People in America will pay an extravagant price for old moth eaten Goods, & such as the Merchants could not otherwise Sell. The Merchants may likewise have views of getting Goods in that case from Holland & other foreign Ports, while the Mob can deter the Custom House officers from attempting to do their Duty.

In forming a judgment on the subject of the above Narrative it may be impossible in many cases to procure what is called legal Evidence, & at the same time numerous circumstances may give the strongest conviction of the Truth to the Mind.

December 6th 1765.

TO THE R. HON^{BLE} LORDS COMMISSIONERS FOR TRADE
& PLANTATIONS.

New York, December 6th 1765.

MY LORDS,

The D. Secrettary informs me that Sir Henry Moore has transmitted to your Lordships, copies of the Minutes of Council which have reference to the Riots which have lately happened in the City of New York, but if I mistake not that the Minutes in the beginning of September were omitted, I now enclose a copy of those Minutes, from a copy of the Minutes of Council which I have now with me at my Residence in the Country because without them your Lordship's information cannot be complete.

From the Minutes of Council of the 4th & 7th of Sep-

tember it appears that General Gage, as well as myself, was of opinion that the assistance of the Regular Troops was necessary for securing the City from Riots & Tumults. The daringly Seditious Papers, which the General mentions in his Letter continually Publish'd, & which the Civil power could not suppress made this appear necessary to both of us, tho' we yielded to the Opinion & advice of the Council. What has happened since shews that the Council erred in their judgment, for certainly it would have been much easier to prevent the first appearance of any Mob, by a force sufficient to deter them, than to suppress Riots & Mobs, without such Force.

It is necessary to relate particularly what I afterwards did, that your Lordships may judge whether I gave any just occasion for the Riots which succeeded.

On the 23^d of October the Ship *Edward*, William Davis Commander, arrived in the river with Packages of stamp'd Papers & Parchments on board. The Mob threatening to destroy the Ship & Cargoe if the Stamp'd Papers were not delivered to them; and the Packages being intermixed in the Hold with other Goods, the Master & Owner of the Ship proposed to me that while the ship was under the Protection of his Majesty's Ships, to hire a Sloop to take the Merchants Goods on board & to Land them till the Packages of Stamp'd Papers could be come at, but no Sloop would hire at any rate. On which I told the Master & Owner to go to the wharf & unload as usual, & that I should give directions to the Magistrates to secure them from any insult, but they answering that they apprehended the ship & cargoe would be in danger by so doing they desired with the approbation of the Merchants who had goods on board that I should desire the Frigate under whose protection the ship was to assist them in removing the Goods, till the Packages of Stamp'd Papers could be come at & put on board the Frigate, which was accordingly done with the apparent satisfaction of all who were interested in the ship & cargoe.

The Packages were afterwards Landed at noon Day from the Frigate & carried into the Fort without a Guard, & remained there without any public discontent appearing till the last Day of October, when I in Council took the Oath enjoined by act of Parliament.

In the night of the 1st of November a great Riot happened, consisting of several thousands of people. A great number of Boys carried Lighted Torches, followed by a Scaffold on which were placed two Immages, one representing their old greyhaired Governor, & the other the Devil whispering in his Ear. They came up close to the Fort Gate; & in going from it broke open my Coach House, took out my Chariot, carried it round the Streets of the Town with the Immages, return'd a second time to the Fort Gate, & then carried the Immages to an open place, about 100 yards from it, where they were hung for some time on a jibbett, afterwards cut down & burnt in a Fire prepared for the purpose, together with my chariot, & some other Carriages found in my Coach House & all the furniture of my stables. When the Immages were brought up to the gate the Garrison were on the Ramparts. Notwithstanding of the grossest Ribaldry from the Mob, and many stones thrown into the Fort, not a single word was returned from any Man in the Fort. After this they went to Major James's House and destroyed everything in it, without leaving him & his Lady more than the cloaths on their back.

The next Day Letters & Messages were sent into me Threatning my Life if I did not deliver up the stamp'd Papers. By advice of Council I very readily declared that I would not distribute them, in truth it was not in my power to do it, but deliver them to Sir Henry Moore when he arrived. This gave satisfaction to great numbers, who in the most open manner declared their satisfaction, but the principal Leaders declared themselves not satisfied, and insisted that they should be sent on board the Coventry Commanded by Captn. Kennedy. This I did not oppose but Captain

Kennedy absolutely refused to receive them, & with good reason, for he was aware of their design to force him to deliver them by Threatning to destroy the Houses he was possesst of in the City, of which he had in his own & his wife's Right more than perhaps any one Man in it.

While these things were transacting, the Engineers put the Fort into the best Posture of Defence & Offence that could be done: The Mob renewed their Threats against the Fort, & that they would assault it to come at the Papers. The Men of greatest Property & the Magistrates of the City, seeing that from the posture the Fort was then in, the destruction of great part of the City, must be the consequence of such an attempt, humbly deprecated to save the Town from Desolation. At last I consented to deliver up the Stamp'd Papers to the Mayor & Corporation of the city, as appears by the Minutes of Council. After which the Mob entirely dispersed, and the City remain'd in perfect tranquility till I delivered up the Administration to Sir Henry Moore.

Now your Lordships may judge what Cause of offence I have given to the People of the City, to occasion such insults & indignities on the Person of their Governor, & your Lordships may be assured that I have given no other.

Since I retired the true cause of the Malice against me was fully declared in the Instructions given to the Representatives of the City, by a Committee consisting of 4 Lawyers, 6 Merchants, & 2 Landed Men, as appears in the enclosed printed Paper viz *And above all of the most dangerous attempt lately made by Lieut. Governor Colden to introduce Appeals from the Verdict of a Jury; an innovation which if it obtain, must inevitably ruin this Country.* The Malice is evident in charging this upon me when they well know that by the Kings Instructions given many years before I was appointed Lieut Governor, the Governor was commanded to admit of appeals & so lately as on the 26th

Day of July last, the King by his Order in his Privy Council Renewed Explained & Confirm'd his former commands of admitting Appeals from the Verdicts & judgments of the Courts of Common Law. How can the admitting appeals ruin this Country? If a verdict & judgment be truly just & equitable can hopes be entertained of having it reversed in the Privy Council? And if it be unjustly obtained by faction & intrigue will it ruin the Country to have it Reversed? But I have explained this matter so fully in my Letters to your Lordships on this subject that it is needless to add anything. It is from this that the Malice of the Lawyers arises against me. Appeals may in a great Measure abolish their dangerous Domination, & with Disinterested judges would effectually do it.

With entire Confidence I appeal to your Lordship's justice from the most malicious attempts to ruin my Character with the People among whom I must live, & to expose my Person & Estate to the rage of a deluded Mob. After the strictest enquiry your Lordships will find that I have had my Duty & the true Interest of the People committed to my care at heart, not only without any view to my private Interest, but with certain & foreseen prejudice to it.

While I have much reason to complain of more than want of assistance from those I had reason to expect it of, I must inform your Lordships that Mr. Banyar D. Secrettary has on all occasions been very useful to me by his friendly assistance. I am with entire submission to your Lordships Justice, My Lords,

TO THE R^t HON^{BLE} EARL OF DARTMOUTH.

New York Dec 6 1765.

My Lord,

I did not know of your appointment to preside at the Plantation Board, before the affairs of this Govern-

ment were in such a State that by his Majesty's Instructions, I was directed to correspond with the Secretary of State on the subject of them.

Since Sir Henry Moore has taken the administration of Gov^t I have retired. Some Ease to my Mind at my Age was become necessary. However that I may be as usefull as in my present circumstances I can be, I have endeavoured to put the present state of the Province in one view for your Lordships consideration. I choose to do this in a private Letter to your Lordship, because I have reason to suspect that some Persons have found means to obtain copies of my Letters to your Predecessors in office of which a bad use has been made to my prejudice. It is easy for malicious Men to pick out what parts of a Letter they think serves their purpose & spread it abroad in conversation with such comments as they think will render the author Odious to the People. It is certainly given out that they have copies of my Letters. If the Clerks be allowed to do this without Leave, it must check that freedom which may be absolutely necessary for his Majesty's Service, & with which Governors ought to communicate their sentiments.

The most material parts of the inclosed Paper were communicated in several Letters at different times to the Plantation Board. The putting them in one view it is hoped may assist your Lordship in forming a just Idea of the present state of this Province, & in forming a judgment of the Papers you may receive on that subject.

I confide so much in your Lordships Candour & Equity that with the greatest satisfaction of Mind I submit my conduct in the administration of Government to your Judgment, after the strictest enquiry you shall think proper to make. Thereby I hope to obtain some share of your Lordships regard & that you will allow me the honour of being with the greatest Respect, My Lord.

TO THE RIGHT HON. LORDS COMMISSIONERS FOR TRADE
AND PLANTATIONS.

New York, Dec^r 19th, 1765.

MY LORDS,

The Deputy Secretary informs me that he has now made out copies of the Minutes of Council from the 8th of December, 1764, the time when they were last sent to the 12th of November last, when I delivered up the Administration to Sir Henry Moore & of the Grants of land from the 6th of February the time last sent likewise to the 12th of Nov^r last. By this your Lordships will have before you all the publick Transactions since the Administration was in my hands, whereby I hope to receive your Lordships' approbation of my Conduct while I laboured under unusual difficulties of which I informed you in my preceding letters & that you will allow me the honour of being, my Lords, Your most obedient and faithfull servant.

TO THE R^t HON^{BLE} LORDS COMMISSIONERS FOR TRADE &
PLANTATIONS.

New York, Jan^y 13th, 1766.

MY LORDS,

The enclosed Minutes of the Proceedings of the Assembly of this Province, wherein I am accused of endeavouring to *give success to that dangerous Machination* (Appeals to the King in his Privy Council) *destructive of the Peace & Security of the Subjects &c.*, I flatter myself will excuse the trouble which on this occasion I think myself obliged to give you.

The Matter complain'd of, & which gave rise to the present Resolves of the Assembly, came judicially before me in a Court of Justice which could not be held but in my presence. I gave my opinion to the best of

my Judgment, without controlling the opinion or Judgment of the other Members. I may have erred very innocently. The most malicious have not suggested that I was biassed by interest or favour. The Kings Order in his Privy Council of the 26th of July last, directing an Appeal to be admitted from the Verdict and Judgment of the Governor & Council, & from thence to the King in his Privy Council, confirms my Opinion so much that I expected it would have put an end to all Disputes, but on the contrary this very order has excited the Resentment against me.

The King's Instructions, the Rule of my Conduct, clearly directed an Appeal on the whole Merits of the case. In obedience to that Instruction I did support the Jurisdiction of the Court to the whole Merits. I was confirmed in my Judgment by considering that his Majesty's Rights & Authority are only secured by his Courts of Justice; and if this should depend absolutely & finally upon his Courts in the Colonies, his Rights & authority might become very precarious. At the same time I perceived that Appeals would be of the greatest security to the People of this Province against an overbearing Faction then too plainly to be discovered in the Courts of Justice.

That such an overbearing Faction does really exist is evident to every Man Conversant in our Courts of Justice. The Opposition to Appeals in the manner it has been made, could not otherwise have happened. The Harranges of the Judges—the indecent Manner of Proceeding in the Council, while the Right of Appealing was Debated—these Resolves of the Assembly, Dictatorially without any judicial authority, suddenly made without time for deliberation on facts unfairly & untruely stated in the Preamble, all of them combine to prove the existence of a dangerous Faction.

I inform'd your Lordships in a former Letter of the influence which the Lawyers had obtain'd in the Assembly—These Resolves are a Consequence of it. The People in general are very sensible of the dangerous

association and influence of the Gentlemen of the Law—tho' every attempt was made by Publications continued for several Months in the weekly Papers, to render my Person Odious, by every insinuation their malice could invent, it proved ineffectual with the People. After the violent spirit was raised in the People against the Stamp Duties, a wicked intention was formed of turning the Rage of the Mob against my Person, but it faild, and I now think myself very safe in my Country House.

How daring the Faction is, appears farther in that vile insinuation couched under the Resolves of the Assembly to the prejudice of the Lords of the Committee of Appeals, that People may think the Province would be ruined by appeals to the King in his Privy Council. Such means are only made use of by bad Men for bad purposes.

The Proceedings of the Assembly—must have great influence on the Minds of the People—they may render every Order of the King and every officer who endeavours to execute them, Odious. The particular injury done to me, by such a public exertion of keen malice permit me to hope my Lords, will entitle me to your Protection and Justification.

TO THE RIGHT HON^{BLE} HENRY SEYMOUR CONWAY HIS
MAJESTY'S PRINCIPAL SECTY OF STATE FOR THE
SOUTHERN DEPARTMENT.

New York Jan^y 14th 1766.

SIR,

The design of the present ruling Faction in this Province is to make me an Example to deterr all succeeding Governors, and the officers of the Crown from opposing their Domination. I have already inform'd you Sir that this Faction is composed of the Lawyers & Men of enormous Landed Estates, who have ob-

tain'd an absolute influence in the Assembly. In the last Act for Granting Sallaries to the officers of Government, the Assembly have deprived me of my Sallary from the time the preceeding act Expired to the time Sir Henry Moore arrived ; which at the rate the Governor's Sallary is fixed by the last Act, amounts to four hundred Pounds in the Currency of this Province. At the same time that they Granted the Governor his Sallary, they Voted him a Present of upwards of Six hundred Pounds, & if I be truely inform'd gave him expectation of their liberal favours. Sir Charles Hardy & General Monckton both very well know, that the whole Sallary & Emoluments arising from the Government of this Province, was far from being sufficient to support them with that dignity with which a Governor ought to Live—much less will one half of them do it, which is all that I have enjoy'd, the other half going to Mr Monckton. Dureing the time for which the Assembly have allowed me no Sallary, I lived at an expence exceeding the whole income of the Government, occasioned by a double Garrison, and all the Officers of the Army in the Place doing Duty in the Fort. In the Night of the first of November the Mob broke open my Coach House, took out my Chariot and other Carriages, with all the furniture of my Stables and burnt them. I had just reason to expect an indemnification for this loss ; but so far from it, tho' this Felony was committed in the sight of great numbers of the Inhabitants of the Town, not the least enquiry has been made into it, in order to bring the guilty to Justice. Neither has any notice been taken by the Assembly of the great loss Major James suffer'd at the same time.

No part of my administration is blamed, except my obedience to the King's Instructions for admitting of appeals & my endeavour to put the act of Parliament in Execution for Stamp Duties in the Colonies. Allow me Sir, through your mediation to lay my sufferings before his Majesty in order to obtain such relief as his Majesty shall think proper.

The difficulties I have met with on account of appeals & the Stamp Duties were quite unforeseen, & the manner in which I have been opposed still more unexpected I resolved to perform my Duty, tho' I was sensible of the Resentment from a most audacious & malicious Faction. It is from the confidence of having acted according to my Duty and the best of my ability, that now in my old age I bid his Majesty's Protection.

Only one Month is wanting to me to have lived 78 years complete: above 40 years of that time in the Council of this Province, in which time I have on all occasions acted on the same Principles. I cannot live many years longer—While I was in the administration, I endeavoured to preserve the dignity of my office. May it not be of public use & for the honour of his Majesty's service, that I be enabled to live with some more Dignity than I can upon my private Fortune with a numerous family of children, especially in a country where such attempts are made to debase Government. His Majesty's Quit rents in this Province, if no other Fund be thought Proper, will allow a Sallary or Pension for this purpose without prejudice to any prior Establishment.

I humbly pray Sir you will please to let me know his Majesty's pleasure in Regard to this my Request, which is made with the utmost submission by, Sir,

TO THE R^T HON^{BLE} LORDS COMMISSIONERS FOR TRADE
& PLANTATIONS.

In the same words as the last to Mr. Conway, except the concluding paragraph which is:

I flatter myself that this humble Request will be graciously received, while it is made with the utmost submission by, My Lords.

TO SIR JEFFERY AMHERST.

Spring Hill January 13th 1766.

SIR,

The many instances of Friendship with which you have honoured me, make me hope this trouble will not be disagreeable. Without doubt you have heard of the Riots and Tumults which have happened at New York, & that some of them have been directed against me personally. Tho' my favouring the Act of Parliament for Stamp Duties was the pretence for this, yet the Resentment of the Faction which excited the Mob arose from a quite different cause. In October —64 an Appeal was brought before the Governor & Council, & from thence to the King in his Privy Council. The Lawyers to a man opposed Appeals as Illegal, & the Council to a Man joined them. I supported the Right of Appealing, singly. In July last the Matter was brought before the King in his Privy Council. By the King's order in his Privy Council the Right of Appealing was confirmed, & I received the King's order in his Privy Council dated the 26th of July for that purpose. This has raised a violent Resentment against me. The assembly by the influence of the Lawyers among other things Resolved that, I have endeavoured to Ruin the Province, by establishing Appeals to the King in his Privy Council, & refused to Grant the Salary due to me from the 1st of September, when the last Sallary expired to the 13th of November, when Sir Henry Moore arrived. Besides the obedience which I owe to the King's commands, the Motives I had for supporting Appeals were—1st. The King's Rights & his Authority are only secured by his Courts of Justice, & if they were to be determined finally in the Colonies they must become precarious. 2^{ndly}. Disinterested Judges cannot be found in this Province free from Family or Party Connections, or Interest in similar cases, And 3^{rdly}. A most dangerous association of the

Gentlemen of the Law both on the Bench and at the Bar, is formed in this Province, by which a Domination of Lawyers influences & overhears in every part of the Administration & perverts Justice in favour of a Faction, by overbearing all their Opposers. Some Instances of which I laid before the Plantation Board.

In my Letters to Mr. Secrettary Conway & the Plantation Board by this Conveyance, I have complained of the injuries done me, & have pray'd his Majesty's protection & Redress. You know Sir, how far I am advanced in years. I have served the King in his Council for this Province above 40 years. In all that time I have acted on the same Principles. May it not give encouragement to others in their Duty, & be for the honour of his Majesty's Service that I be enabled to pass the small remainder of Life with some more dignity than I can by my private Fortune, & a numerous Family of Children. A Pension will be the most agreeable & the most honorary to me. I am well assured it may be made out of the Quit rents of this Province, without injury to any prior appointment, if some other Fund be not thought more proper. In such case I still may continue usefull in giving such information as his Majesty's ministers may require. I beg Sir, your good offices in my Favour, & it will be a singular favour to let me know as soon as may be, what I am to expect, whether it be to my wish or otherwise.

You expect probably, Sir, to know my thoughts of the Tumults which have lately happened in America. I can tell my sentiments more freely to you than to the Ministry, because you know the People & can correct me where I err.

The ruling Faction gain an absolute influence over the officers of Government by the Sallary of every officer being every year voted or appointed by the Assembly, lessened or encreased, or refused, as they like the Man in office, and the Fund is yearly raised & applied for that purpose. If internal Taxes be laid by Parliament, they conclude the officers of the Crown

will be paid out of them and the power they now have must cease. As soon as the Act for laying a Stamp Duty in the Colonies was known, the leading Men in each Colony by a private Concert, set their writers to work, who by the most daring inflammatory Papers without the least regard to Truth or public decency excited the Minds of the People to such a highth that they thought their natural Liberty was in the greatest danger. The enthusiasm of the Mob was carried so far that no Man must speak his sentiments without danger to his Person or Effects. To give some kind of authority & more regular concert in all their proceedings, a meeting of Committees from all the assemblies by invitation from the Massachusetts Bay was agreed to be held at New York in October last & they accordingly met. This was certainly an illegal & dangerous convention, but the circumstances of the times made any attempt imprudent to prevent it, or to oppose their Meeting.

The principal object so far as I can judge which they have in view, is to intimidate the Parliament into a repeal of the stamp Act, by having it believed that the Act cannot be put in execution without occasioning a civil war. They are desirous of having their most enormous proceedings put in the most glaring Light. They give instances where Riots & Mobs in Great Britain have produced a Repeal of unpopular Acts. But in case the Parliament think proper to enforce their authority, I can discover no measures taken to continue the opposition by force, neither do I think it possible to concert any Plan for that purpose, in which the Colonies can or will unite to oppose a moderate force from Great Britain. The Eyes of the other Colonies were on New York, & were at a stand till the most daring daring insults upon Government there, encouraged them. I was, & am still of opinion that had the officers of the Crown united vigorously on the first appearance of the disorders, they might have been crushed in the beginning, with the force which would have been collected

there, & the Example of New York would have intimidated the other Colonies.

You know Sir, that the Military Power cannot act but in assisting the civil. When I proposed the calling in the Military Assistance, the Council & Magistrates insisted that there was no danger from Mobs & there was no need of assistance. I have reason now to suspect that some of the Council, all the Magistrates of the City, and even some of the Judges of the Supreme Court favored the present spirit in the People. You may from this perceive the difficulties I laboured under, however I flatter myself it will appear from the Minutes of the Council that I have done everything in my power to support his Majesty's authority.

A few Exemplary Punishments in my opinion will effectually suppress this seditious Spirit in the City of New York; but it cannot be done in the present state of the Courts of Justice, & I fear not without Military assistance. A few Men in the City laid the Plan, & excited the Spirit I believe not above half a score & one half of them Lawyers. Men, who on other occasions, are far from being in the esteem of the People. One thing is most certain that if we be not brought to a just submission to authority, we shall become a most unhappy people & be useless to our Mother Country. I am confident from the Knowledge you have of the People in this Place, the most prudent use will be made of what I now write. I am with the greatest Respect and affection, Sir,

TO THE HON^{BLE} L^S. F^D. CARY, MAJOR TO THE 60TH
REGIMENT.

Spring Hill, Jan'y 14th 1766

SIR,

I have the honour of yours of the 10th which I received after I had wrote my Letters to go by the Packett. I am obliged to you for your kind proposal,

but I have a delicacy at this time after receiving such public Insults, which hinders me from joining in it. No doubt I wish to retire, as most proper for me at my age, but I wish to do it with some dignity. Your proposal cannot be entered upon without participation of the Secrettary of State, who nominates to such offices, & how this can be done with a proper decorum at this distance I know not. I shall expect answers to my Letters in May next & not sooner, after that time we may talk more freely on the subject. In the meantime the proposal shall be kept secret. My son David is privy to all my Concerns none else shall know anything of it, & I do not doubt of his secrecy. I have the honour to be with great Regard, Sir,

TO HIS EXCELLENCY SIR HENRY MOORE, BART.

Spring Hill, Feby 18, 1766.

SIR,

This Day I had the honour of a Letter from Secrettary Conway of which I inclose a copy for your Excellency's information. My son is to be in Town next Saturday, and by him I shall send the Original that you may compare it with the copy. Your Excellency, I believe, is well assured that it was not in my power to put any part of the act for a Stamp Duty in Execution, & therefore I did not apprehend that I should be blamed for saying I would not do what was not in my power to do, & I hope your Excellency will enforce this Excuse.

I shall be extreamly willing and ready to give you all the information I can. By this time you know the disposition of the Gentlemen of the Council; and that I had not one of them to assist me in favour of the act. I am likewise perswaded that before this time you may have discovered that the Judges were so far from assisting me that they laid every difficulty in my way,

& I may add that you'll find few Men who have any esteem either of their Judgment or Integrity; I mean Horsmanden and Smith. Pray put the Question properly without shewing a design to any you confide in.

The weather is such that I cannot, at my age, travell so far as New York, without evident danger to my Health—Please to excuse my not waiting on you as otherwise I should. I am with great Respect, Sir,

COPY OF M^r SECRETARY CONWAY'S LETTER TO LIEUTENANT GOVERNOR COLDEN.

St. James's December 15, 1765.

SIR,

I have Received your Letter of the 5th November by Major James, and that of the 9th of the same Month by the Packett, with the Minutes of the Council of New York from the 31st October to the 6th. November; all which I immediately laid before the King. His Majesty was extreamly sensible of the Delicacy & difficulty of your situation, and very willing to make every possible allowance, and to suppose it owing more to necessity than want of firmness in you, that the unjustifiable Demands of the People met with so much compliance: the unanimous advice of the Council, and the concurrent opinion of the Commander in chief of his Majesty's Forces are a stronger justification of your surrendring the Stamps to the Majestates than any Argument, which suggests itself at this distance; but there is one circumstance in your conduct, which neither his Majesty nor his servants can at all approve, which is, that you should upon any perswasion have been induced to a declaration and promise of takeing no step till Sir Henry Moore should arrive. It is not comprehended upon what principle you could take upon you thus to suspend the power of Gov^t till the arrival of the Governor; the power & authority of Governm^t was

certainly fully & completely in your hands; if circumstances made it impossible for you to execute your power in any Instance, Impossibilities are not expected from any Man, and such circumstances would have excused your not having done any Thing; but I do not see how you can justify your promise of not doing any Thing, till Governor Moore arrived; whenever that happened your authority ceased, and you could do nothing; so that in fact you engaged that you yourself would never act; which it is conceived, without Instructions from his Majesty, you had no Right to do; and considering too that in the Council of the 31st October you had solemnly engaged to do your utmost for the observation of the act, it will require very strong Reasons indeed to justify your engaging yourself, within a few days after, to do nothing towards the execution of that same Act; when a change of circumstances might make it practicable.

From your last Letter I have hopes, that time will produce a Recollection, which may lead those unhappy People back to a Sense of their Duty; and that in the mean time every proper & practicable Measure will be taken to awe that licentious Spirit, which has hurried them to these Acts of Outrage & Violence, equally dangerous to the sober and well disposed part of the People, the Ease & Quiet of the City, and subversive of all order & authority among them.

Sir Henry Moore will be certainly arrived before this reaches you: It is therefore expected, Sir, from your knowledge of the Country & People that you should inform the new Governor of everything necessary for his knowledge, respecting as well the State of Things, as the Characters & Disposition of Men in that Country: and in regard to what you particularly mention of those employed in the principal offices of the Law, he will see that, by his Instructions, he is empowered to suspend Members of the Council and Officers of the Law, who shall appear to deserve it; being in that case only obliged to send Home immediately the Reasons and

Causes of such suspension. It is not improbable, that such times as these, may require the Exercise of that power; as it is not doubted the Governor will use it with discretion, so it is expected, he should not want firmness to use it boldly wherever it may seem usefull to the Kings Service, & the Public Peace. I am with great Truth & Regard, Sir, Your most obedient humble servant,

H. S. CONWAY.

TO HIS EXCELLENCY GEN^L MONCKTON.

New York: Feby 21st 1766.

SIR,

When I received the honour of your most oblidging Letter informing me of your Resignation of this Government, the public Affairs were in such disorder, from the dislike the People had conceived of the Stamp Duties, that I delay'd answering it till after Sir Henry Moore's arrival, I thought I could not write without mentioning of them, but when I attempted it, I found I must run into a longer detale than could be agreeable to you. This is truely the reason of my delaying to acknowledge the honour you have done me in approving my conduct towards yourself.

The last years Accounts in the Secrettaries Office were not made till a few days since. My son goes at this time to Town to finish with M^r Watts.

Sir Henry Moore is not in an agreeable situation. The disorders still continue, & it is not in his power to suppress them. I am in the country in hopes of passing the little remainder of life at ease. If I preserve the honour of any degree of your Esteem, I shall think myself happy. I have the honor to be with the greatest Respect

TO THE RIGHT HON^{BLE} HENRY SEYMOUR CONWAY, HIS
MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR
THE SOUTHERN DEPARTMENT.

New York, Feby 21st 1766.

SIR,

I have the honour of your Commands of the 15th of December, I am extreemly sensible of his Majesty's great indulgence to my conduct, under greater difficulties than any Governor ever met with since I knew America. I was the least apprehensive of blame in that circumstance of my Conduct which has happened to be chiefly blamed. It often happens that when the reasons of Conduct are the most evident & clear, we are apt to suppose them alike evident every where, & therefore neglect to be sufficiently Explicit.

At the time the Mob Demanded the Declaration from me that I should not distribute the Stamp'd Papers, they knew that no Man would Distribute Them, and that no Man dared to Receive a Stamp'd Paper, and therefore the Council thought I would be under no difficulty in saying I would not do, what it was not in my power to do. We had certain Advice that Sir Henry Moore had been above Eight Weeks at Sea, and his arrival might be expected every hour, I should therefore have been Esteemed extreemly obstinate, had I refused to quiet a dangerous Mob, at that time collected in the Streets on so easy terms, as not to issue the Stamps before Sir Henry Moore arived: and whatever consequences had followed, I should have been loaded with the dangerous Reproach of having occasioned it, by persisting to Act solely on my own Opinion. My promise was founded of the supposition of the arival of Sir Henry Moore in a very short time: If any accident had happened to prevent his arrival, on that supposition ceasing, the obligation of the Promise ceased; and I believe no Man would have thought me perpetually bound by it.

It is true that this Demand of a Promise from me was designed as an Insult on Government, for every Man knew that I could not distribute the Stamps; & perhaps I had stronger reasons for submitting to that Insult than any other Governor has had. No man in the Administration would support me; and a Governor's authority must be weak when it is expected to be at end next Day. On the contrary I was inform'd, that some of the Council called me an obstinate old man, in opposing the violent spirit of the People as I had done, and that such an opinion was every where propagated in Town. My whole fortune was exposed to the Mob, and they openly threatned to destroy everything I had both in Town & Country. My eldest son who lives in Town was obliged to bring all his household Goods & Effects into the Fort, came into it himself for security of his Person and sent his Wife and Children on board the Coventry for their protection, tho' he had done nothing to incur the displeasure of the People. The Fort was not then in a sufficient state of Defence. No breastworks on the Ramparts to cover the Men from small arms, and the Council refused their advice to countenance the putting it in a proper State of Defence. It was after this that the breastworks were formed by the hard Labour of the whole Garrison, and the necessary precautions taken against setting the buildings on Fire from without. It is true I had sufficient Force to disperse the Mob, but when neither the Council would advise nor the Magistrates ask assistance to do it, I must have done it on my single authority: the doing it might have been fatal to many innocent People, and I did not think it prudent to risque the dangerous Consequences which might have ensued.

Sir Henry Moore has done everything in his power to sooth & quiet the Minds of the People, and yet since his arival, the Insults on Government have been frequently and daringly repeated, of which no doubt he will particularly inform you. A Governor in chief just entered on his office, when every one endeavours

to gain his favour, must have more influence than a Lieut Governor at the time his Authority is expiring. I am now in the Country and cannot go to Town in this cold Season without evident danger of my health, at my age. I have sent the Governor a copy of your Letter to me, which I make no doubt will encourage him in his firmness.

After the most serious Reflection I can make, I cannot imagine that the Men who excited this violent seditious Spirit in the People; some of them men of large Property, had form'd any Resolution to Revolt. Their design I believe was only to intimidate the Parliament into a Repeal of the Stamp Act. Some of them in Conversation have mentioned this to me, and gave instances of several Laws which had been Repealed to quiet the Minds of the People, after they had discovered their utmost dislike by Riots & Tumults. When in answer to this it was told them that, in the present case this would be renouncing the Sovereignty of Parliament over the Colonies, they did not seem to attend to it, because probably they do not dislike it. It is now a question whether the Men who excited this seditious Spirit in the People, have it in their power to suppress it.

The seditious Spirit has not extended greatly into the Country. The City of Albany remained quiet, till after their Members returned from the Assembly. Then they excited most unaccountable Riots in that Place of which Sir Henry will inform you. From the Effects in the Colonies it is become evident, that the means of producing of them were concerted in the general Congress at New York in last October.

I am of opinion, Sir, with entire submission to better judges, that no great force may be requisite to reduce the City of New York to obedience. After the Fort shall be restored to the state it was in when I left it, I believe a Thousand Men may be sufficient. However it will be best to have such a Force as may destroy all hopes in Resistance. After such Force arrives I am of

opinion, if Proclamation be made that, all riotous assemblies or open disobedience of the Laws will be Treated as Rebellion, the People will submit without opposition, & the whole Province will follow the example of the City.

Now Sir, I write my Opinion more freely than I did while the administration was in my hands. My Thoughts were then continually interrupted by unexpected and striking Events. I have had now time to reflect more coolly, and Sir Henry Moore has had time to inform himself & to correct where I may have err'd. He may likewise have received Lights which I did not, and therefore I think that I may more freely give my Opinion without danger of leading into mistakes. Be assured Sir that it is done with the utmost submission, and diffidence of my own abilities in matters of so great Importance. His Majesty's approbation of me as a faithfull Servant, tho' I may have err'd in some things, will make me extreamly happy in my old age, at the close of my Labours for I have strenuously endeavoured to perform my Duty.

May I obtain some share of your esteem with the honour of being with the greatest Respect, Sir,

P.S. Since I wrote what is above the inclosed News Paper * came to my hands, & as it contains sentiments of the Opposition like to be made contradictory to mine, I am willing you should see them—in several instances it confirms what I wrote in my former Letters that the Lawyers were the original Writers of the inflammatory Papers. This Printer has continually published the most pompous accounts of the Riots & Insults on Government. A most numerous Riot with shamefull Insults on Government appeared last Week. He has thought fit to give a very concise account of it.

* Holt's Gazette of Thursday, Feb. 20th.

TO THE R^T HON^{BLE} HENRY SEYMOUR CONWAY.

New York, February 22^d 1766.

SIR,

After I had wrote my preceeding Letter, I received a Letter from my Son who lives in Town, whom I had directed to deliver my Letter, with a Copy of yours, as mentioned in my preceeding, from his own hands to the Gov^r. Sir Henry ask'd my son whether he knew the contents. He did not. After reading both Letters to him, Sir Henry said this is the first scrip of Paper he had received from the Lieutenant Governor, that he had desired a copy of his Letters to the Ministry, but that the Lieut. Gov^r had declined it and had only offered abstracts of them. He supposed the Lieut. Governor had been warm when he wrote. This oblidges me Sir to give you the trouble of some particulars I did not intend. The Day on which Sir Henry arrived the Assembly was to have mett. In order to enter into some discourse with him on the state of the Province, I shewed him the speech I had intended to have made at the opening of the Sessions. He read it & returned it to me without speaking one Word on the Subject. Some time afterwards without any previous discourse, he desired to have Copies of my Letters to the Ministry. The abruptness of the Demand surprised me, and after reflecting on some Persons I had seen assiduous with him, I declined to give copies, but offered him abstracts. After that I had no opportunity of free Conversation. He shewed such apparent neglect, both in Council and at other times, as could not but shagreen a Person who had immediately preceeded him in the chief command: And haveing Ordered the Fort to be dismantled without consulting me, I thought it proper for me to retire to the country. I waited on him, told him the fatigues I had undergone both of Body & Mind, made it proper for me to desire some ease, & therefore if he had no further Commands, I

was desirous to retire to my House in the Country, which was about 15 Miles from Town. My retireing seemed very agreeable to him & I took my leave. I knew that his neglect of me might be of Personal use to him with the Assembly, and I was willing he should take the benefit of it without in the least opposing any of his measures.

I flatter myself you will excuse this trouble which I would have avoided, if I had not thought that justice to myself made it requisite.

I have the honor to be with the greatest Respect

TO ARCH^d KENNEDY, ESQ

Fort George, 2^d Nov^r 1765.

SIR,

The Gentlemen of the Council are desirous that the Stamped Papers now in the Fort, should be put on board one of the Men of War—and I desire to know as soon as possible from you whether or not you will order them to be received on board. I have the honor to be Sir, Yr.

N.B. This Letter is entered from Capt^a Kennedy's Copy of it, being neglected at the proper time.

TO ARCHIBALD KENNEDY ESQ.

Spring Hill, March 28th 1766.

DEAR SIR,

I hope the inclosed Letter will Answer all the purposes you proposed, & that nothing is omitted that you mention'd to me while you was here, or in your Letter which I received since. I have lookd over the Copies of all my Letters & I do not find that I have

mention'd you or the officers of the Navy in any of them after that of the 26th of October, except one of the 6th of December to the Board of Trade in which I cursorally mention your declining to take the Stamps on Board the King's Ship, & gave much the same reasons for it that I now do to the Secrettary of State. So that the Paragraph which you have of my Letter of the 26th of October, is all that I have wrote relating to you, or the Navy, from that time to this.

If it can be done I wish that you may take a Copy of the Letter inclosed for your own use, & then have it seal'd with my son's Seal which is the same with mine, because my Seal may be known at the Secrettaries office, & it may be taken amiss that it should be communicated to any Person before it is received.

It will give me the greatest pleasure to do you or M^r Kennedy any service in my power while you are absent; and I beg that you will freely command me. I heartily wish you a good voyage & speedy return in good health, & with success to all your wishes, I am with the greatest sincerity; Sir,

TO THE R^t HON^{ble} H. S. CONWAY, HIS MAJ^y PRINC^l
SECT^y STATE.

New York, March 28th 1766.

SIR,

I was extreemly surprised when Captⁿ Kennedy informd me that he was superceded in his Command of his Majesty's Ship Coventry, on a Complaint of his having refused to take the Stamp'd Papers on Board at my Request. I did not mention Captⁿ Kennedy's name or any thing of the Officers of the Navy in my Letters of the 5th & 9th of November, which it is supposed have occasion'd his Majesty's Displeasure. And in the Letter immeadiatly preceeding of the 26th of October, you will find Sir that my Sentiments were

very different by the following Paragraph of it. *I am the more particular in this account that you may have some conception of the difficulties I labour under from the want of assistance where I have the best reason to expect it. At the same time I have the pleasure to assure you that the officers of the Navy and Army with great allacrity give me every assistance I desire.* This letter went by Captⁿ Dover of the Royal Artillery, in an Artillery Transport which I am inform'd did not arrive till some time after you had received my Dispatches of the 9th of November, in which the Minutes of Council were inclosed, & which I suspect have given occasion to some mistake.

In these Minutes, a Minute of the Common Council of the City is recited in which it is said that I was willing to deliver up the Stamps to M^r Kennedy, & that he had refused their earnest Request to Receive them. It is true I should have yielded to the proposal of delivering them to Captⁿ Kennedy had he consented to Receive them; but as I did not think it necessary for his Majesty's Service or prudent for Captⁿ Kennedy to receive them I did not at any time join in desiring him to take them. The Corporation sent some of their members to desire Captⁿ Kennedy to receive the Stamps but I suppose he thought that he had no Connections with them.

I have been obliged to give you Sir, the trouble of reading so much writing, that I was unwilling to enter into a minute detail of circumstances where I did not apprehend it to be necessary; and I did not then imagine the circumstances of Captⁿ Kennedy's declining to take the Stamps, to be such. But now justice to him makes it requisite to trouble you with a minute detail of that matter.

The next day after the Mob had insulted their Governor, on the first of Nov^r in the manner set forth in my Letter of the 5th & 9th of November, they were the whole Day collected in Bodies throughout the Town which seemd to be in the greatest Confusion & Tumult.

I call'd together his Majesty's Council & laid before them the situation I was in and desired their advice, as appears by the Minutes of that Day. They unanimously agreed & proposed to me as an Expedient which in their opinion would entirely quiet the Mob, that I should declare that I would not distribute the Stamps or act further till Sir Henry Moore arived who was then expected every hour. They insisted that I could in no manner be blamed for declaring I could not act in a matter in which every Man knew it was not in my power to act, as no Man would or durst receive a stamp'd Paper. It was now near Night & the Mob was become very numerous and Riotous. I was pressd to Paceyfy the People, & the strong desire I had to deliver up the Administration in quietness to my Successor with other Reasons that I have mentioned in my Letter to you Sir of the 21st of February, induced me hastily to Comply with the unanimous Advice of the Council—who went out instantly to the Mob & declared to them what I had agreed to, on which a general huzza was given, & they dispersed in all appearance with satisfaction. I am confident the Peace of the City would have been restored by this Concession had Peace & Quietness been consistent with the purposes of the Directors of the Mob, which by the sequel it plainly appeared was not.

The City remained quiet & Easy one Day during which the Directors had found another Expedient to excite Tumults by making a Demand that the Stampd Papers should be sent on board the Coventry. Then I plainly saw their Intention that no yielding would satisfy them, & that it only served to increase their Demands & Insults. However I was desirous that the whole load should not lye on my shoulders, & I calld the Council in hopes they would assist me by takeing some share of it, when I told them plainly what I thought were the intentions of the present Riotous proceedings, but I was disappointed, they advised me to write to Captⁿ Kennedy to receive the Stamps.

In my Letter to Captⁿ Kennedy I mention'd the Request of the Gentlemen of the Council that he would receive the Stamps on board, in order to quiet the minds of the People. I did not join myself in the request for the following Reasons :

1st I thought the Stamps at least as safe in the Fort as in his Ship & that the Demand to have them sent on board the Coventry, was for no other purpose than to insult the Government.

2^d I suspected that one view in desiring the Stamps to be sent on board the Coventry, was with the hopes of having them delivered up by Captⁿ Kennedy, to preserve his private property in the City, which was considerable & which otherwise the Mob would destroy. I was confirmed in this suspicion when a Gentleman who came into the Fort with others who came to persuade me to send the Stamps on board the Coventry, openly said that he would sooner loose his right hand than advise Captⁿ Kennedy to receive them. I knew he was Captⁿ Kennedy's friend, & I believed that he was in the secret of the Directors of the Mob. I could not therefore desire Captⁿ Kennedy to do a thing which I believed would bring ruinous distress upon him, when the Public Service & his Duty did not require it.

Lastly, the Stamps could not be so safe on board the Coventry as in the Fort. The Winter approached, when the Ships must be brought to one of the Warfs in the Town, her Guns must be put on Shore, & the Officers could not prevent the Men from leaving the Ship, or from being seduced by the People of the Town—it is well known Saylor's easily may be seduced.

Captⁿ Kennedy in his answer did not absolutely refuse to take the Stamps on board, but gave reasons why he thought it unnecessary, and the Gentlemen of the Council did not advise any reply, or farther Requisition of him. They even desired that no Minute might be made of their Request, which as the Motion had come from them I consented.

The Opinion which I had conceived of the purpose

pursued by the Directors of the Mob, is strongly confirmed by what has happened since the arrival of Sir Henry Moore. He has yielded every thing in order to quiet the Minds of the people, & notwithstanding of this Riots & Mobs have continued frequent & as much insulting on Government as ever. The only difference is, they are not directly personally against him, as they were against me.

I flatter myself you will, Sir, excuse this trouble, which I think in justice to Captⁿ Kennedy, an honest Man cannot avoid, but it is done with humble submission by, Sir,

TO SIR JEFFERY AMHERST.

Spring Hill, March 31, 1766.

SIR,

The Bearer Mr. Amos Ogden must be so much better known to your Excellency, for his Military Services under your Command, than he is to me, that it is quite unnecessary for me to say anything on that Subject: but as he is very well recommended by several Gentlemen in New Jersey, as a Man of cool Courage & good Character, and really deserving encouragement, I could not refuse his request that I would give him a Letter of Introduction to you Sir. None of the Provinces have given any kind of Support or Gratuity to the officers who served in their Troops, after the service Expired. When a Man has spent the vigour of his youth & the strength of his Constitution in his Country's Service, he has a right to expect a Recompence; but nothing of that kind can be obtained here. I am humbly of Opinion that this Gentleman's obtaining some Recompence in England at this time, must greatly encourage others to exert themselves in his Majesty's Service.

TO MAJOR THOMAS JAMES.

Springhill, May 1, 1766.

DEAR MAJOR,

I have your kind Letter by the Packett, Goodrige, which you forgot to date. Among many unexpected things, which you tell, one I could not have believed, without the strongest authority, that any Man in Parliament did justify the proceedings of the Americans in Opposition to the Stamp Act. This must make strong impressions on our Minds at all times. Indeed I did not imagine that the Stamp Act would have been Repealed without enforcing a previous Submission, because I believed it would give such a shock to the Authority of Parliament over the Colonies, as would certainly be avoided. I find I have mistook greatly, and in this, as I have at all times, I submit to the Wisdom of my Superiors.

I have endeavoured to do my Duty as a faithfull servant, and I flatter myself that no instance can be given to the Contrary. As to my conduct in private Life, I dare challenge all the World.

I knew well that I had excited the utmost Malice of some of the Lawyers; but this was far from creating any dislike to me among the People of the Province, and all the wicked Artifices of these Men were not able to produce any Effects on the Minds of the People, to my prejudice, till they took advantage of the general ferment against the Stamp Act. It must greatly affect an honest Man, conscious of his own Integrity, to hear a Question was put in the House of Commons, whether he was not universally Disliked. It might have been Expected that in the highest Court, prejudices would not have been Entertained against a Servant of the Crown, without clear Evidence.

The officers of the Crown cannot Judge of an Act of Parliament otherwise than to yield obedience to it. To say an Act of Parliament is illegal, seemd to me a

contradiction in Terms. For this Reason whatever the Parliament may think most prudent on this occasion, I am confident the Ministry will not allow the King's Servants to suffer for performing their Duty. Both Justice & good Policy require they should not: for this Reason I cannot doubt your sufferings will be made up to you, so as to encourage the King's Servants to perform their Duty against the Opposition of any dangerous & Seditious faction, which may at any time arise. It will give me great pleasure to hear that you have received an addiduate Recompence for all your Sufferings.

Allow me to put you in mind of your kind promise of writing to me by every Opportunity, & if you are desirous of hearing from me, let me know how to direct for you. Make my Compliments to Mrs. James in the best manner you can from a very old Man. May the disappointments of her amusements in her Gardens at New York, be made up to her in more essential Pleasures. I am with the greatest Esteem & Regard,
Dear Sir,

TO HIS EXCELLENCY SIR HENRY MOORE, BART.

Spring Hill, June 16th 1766.

SIR,

Yesterday a printed Copy of your Excellency's Speech to the Gen^l Assembly came to my hands, in which you recommend to them to make full and ample Compensation to the sufferers for their Goods & Effects destroy'd by the Populace. As it has been usual, & the Assembly may expect that all accounts to be paid out of the public money be laid before them by the Governor, it is become incumbent on me to beg the favour that your Excellency may please to lay before the Assembly, the Demand of Payment which I think I have a just right to Expect.

It is notoriously known that my chariot was burnt on the first of Nov^r last. At the same time I lost the furniture of my Stables & other things of which the account is inclosed, amounting to £195, three shillings.

The Assembly at their last session did not provide for my Sallary from the 1st of Sept^r to the time your Excellency arived. I must entreat your Excellency to recommend to the Assembly to make provision likewise for that Service. I cannot doubt of your using your utmost influence to have justice done me. I have the honour to be with great Respect

TO SIR JEFFERY AMHERST, KNIGHT OF THE BATH.

Spring Hill New York June 24, 1766.

DEAR SIR,

My most gratefull thanks attend you for your very kind favour of the 28th of March, informing me of the uncommon concern & trouble you have had for my Interest. This makes the strongest impression at this time, while I have the malice of a virrulent Faction to struggle with, & while I have nothing in my power to return, but a most gratefull Remembrance (whatever the issue be) of your unmerited Friendship.

I have this comfort that in my public Conduct I have not been sway'd by any private view. I have only pursued what I thought my Duty required of me. I may have err'd in Judgment, but as yet I have not discovered any Error to the prejudice of his Majesty's Service, or of the true Interest of the People who were committed to my care. From the numerous instances of Regard which I have received since I retired, I flatter myself that many in this Province do me justice notwithstanding of the tumultuous appearance to the contrary.

Sir Henry Moore in his Speech, at the opening of the present Session of Assembly, by his Majesty's Command

required the Assembly to make ample compensation to the Persons who had suffered by the late Riots, pursuant to the Resolution of the House of Commons of Great Britain for that purpose. I laid before them an account of what I had lost by the Riot on the 1st of November amounting to £195.3—the Loss & value ascertained on Oath. The Assembly having refused to make me any recompence, I have by this opportunity made my complaint to M^r Secrettary Conway, in hopes that, by this Refusal, his Majesty may be induced to give me recompence in the manner which I formerly prayed, & which would be much more agreeable to me than to receive the recompence from the Assembly. The Sallary detain'd from me, with my loss by the Riot, amounts to £595.3. I take the liberty to inform you of this Sir that if you think proper, you may take the time when my Letters are received as a proper opportunity to use your good offices in my favour.

The Merchants in London have wrote numerous Letters to their Correspondents & even to all the Preachers among the Independants (it is supposed at the desire of the Ministry) to persuade them to submit to Parliamentary Authority. From what appears in the Transactions of our assembly, & from what I can learn without Doors it will be without Effect. They seem to be more confirm'd in their Sentiments of Independency on the British Parliament. So far as I can judge it would have been much more easy to have enforced obedience to the Stamp Act, than after the Repeal to establish due obedience to the British Legislation. All legal authority has been so much trampled under foot that the Men of Property begin to be apprehensive of themselves. Numerous & tedious ruinous Lawsuits have subsisted many years in some Counties. Now the poor People attempt to do themselves justice by Riots & Mobs. Some of the chief promoters of the licentious Spirit in the City suffer by the Riots in the country. The Govern^r at their desire has applied to the General for Military Assistance. If they find themselves unable to subdue

the licentious riotous spirit which they themselves have raised, they will with all humility submit to the authority of Parliament. I am persuaded that nothing but Fear on one hand or other will induce them to it.

The Government of New York you know Sir, deserves the greatest attention of any on the Continent. The Governor is left to depend on the annual Grants of the Assembly for his Daily Bread, & care is taken to make him sensible of this. Sir Henry Moore very soon perceived this. He openly caressed the Demagogues—Put on a Homespun Coat, the Badge of the Faction, & suffered the Mob to insult the officers of Government without interposing. He went in Person to the Coffee House to publish every Piece of News which he thought would please them, & it plainly appears from his Speech that he is more carefull not to displease the Assembly, than to enforce the Resolution of the House of Commons. I was in hope that out of Regard to the Person who immediately preceeded him in the chief command, he would have particularly recommended my case for Relief. I desired it of him by Letter, but without effect. I was so impolitic as to make my duty the only rule of my Conduct. He and I will be striking Examples to future Gov^{rs} not soon to be forgot. It is a great happiness to me, Sir, that I can open my breast to you on a subject that may not be proper to mention to others.

If this insulting Refusal of the Assembly to do me justice, have not the Effect of procuring me a recompence from the King, I shall give up all hope of Redress. You will Sir soon be able to inform me what I am to expect, & I must earnestly intreat you to free me from the disagreeable State of doubting & hoping, as soon as you can.

While the officers of Government who endeavoured to support the Laws, meet with every discouragement from the Gov^r as well as from others the Gov^r courts the favour of those who are known to be the authors of the late Riots, by lavishing Grants of large Tracts of

Land to them. It is too true that the Governors of New York generally have made use of the power of Granting Lands with view to their own private Interest only. From this the King's Revenue of his Quit rents in this Province are so inconsiderable while the Proprietors of Pensilvania & Maryland receive so great Revenues from the Quit rents of their Lands. The power of granting Lands in these Proprietaries is by distinct Commission from that of the Governor, & the Persons intrusted are under special Regulations. A Plan may be concerted by which the Revenue of the Quit rents would become sufficient for the whole Civil List of this Government, & at the same time the cultivation of the Country greatly improved.

Nothing can excuse the trouble which I give you Sir, but the Sentiments of your generous friendship strongly impressed on my Breast. Whatever be the Event the esteem & gratitude cannot be lessen'd with which, Sir, Y^r most obliged and faithful Servant

TO THE R^T HON^{BLE} HENRY. S. CONWAY, PRINCIPAL
SECT^R OF STATE,

New York June 24th 1766.

SIR,

The Governor in obedience to his Majesty's Command haveing laid before the Assembly of this Province the Resolutions of the House of Commons of Great Britain for the payment of losses any person has sustained in the late Riots for his deference to the acts of the British Legislature, I sent in an Account of things I had destroyed by the Mob in the night of the first of November last when they broke open my coach house & burnt my chariot &c. The loss & the value of things were proved by my son's Oath, amounting to the sum of £195. 3. Major James had Petitioned to have compensation for his losses, sustained at that

time, & his petition being referred to a Committee of the whole House, my Account was referr'd to the same Committee, together with the accounts of some other Persons, who sufferd at the same time by the Mob. The method the Assembly has taken of refuseing any compensation to me, is by the Committees passing my Demand over in silence & reporting in favor of the others. It is probable they did not think it prudent to enter on their Minutes a direct negative to a Resolution of the House of Commons of Great Britain, while at the same time they Resolved to pay no Regard to it so far as relates to me; and I am assured this is their Resolution. The printed Journal of the Assembly is enclosed, from which you may Sir be more particularly inform'd, & see that even the Resolution of makeing Compensation for Major James's loss, was carried by one single vote.

In my Letter of the 14th of January last I inform'd you Sir that the Assembly had designedly neglected to Grant me any Sallary from the 1st of September to the 13th of November, the Day when Sir Henry Moore arrived. That the Sallary for that time amounts to £400 currency. So that the whole of my sufferings for my deferrence to an Act of the British Legislature amounts to £595 : 3 : 0 : current money of this Province. I know of no method of compelling the Assembly to do me justice in pursuance of the Resolution of the House of Commons of Great Britain but by Act of Parliament. It will in some measure appear from the assembly's address to the Gov^r how unwilling they are to acknowledge the authority of Parliament in the Colonies: & this authority is acknowledged in the Councils address in very indetermin'd Terms. I believe Sir that you will not think it prudent to enter into a Dispute of such Consequence as the extent of the authority of Parliament in the Colonies, on a subject of so little Consequence as the Compensating of my losses on this occasion; at the same time I flatter myself that his Majesty will be of Opinion that

in justice I ought to have my Losses Recompened, & that it will be of encouragement to his Majesty's Servants in the Colonies that I do not suffer, but receive some public Reward for adhering to my Duty, especially in a case where I clearly saw that by doing so I must greatly prejudice my private Interest in this Country. For these Reasons I humbly intreat that you will please to lay my Case before his Majesty, & that you will allow me to renew my former Request of haveing my losses Recompened by a Pension. It may be done out of the Quit rents of this Province without any prejudice to prior appointments. This method of recompencing me I humbly conceive will be most consistent with his Majesty's Honour on this occasion, & will be most agreeable to me. I am now in my 79th year of my Age, & it cannot be of long continuance.

I inclose likewise a Printed Proclamation * from which the Sentiments of People in power may be discover'd. The owners of the great Tracts of Land have for several years past harrassed the Farmers in their neighborhood with expensive & ruinous Lawsuits. Differences have likewise arose between some of the Landlords & their Tenants. Some of them were committed to Jail—Others takeing advantage of the licentious Spirit every where propagated, collected in great numbers, broke open one of the Jails set their Associates at Liberty, & threaten'd the Persons & Effects of some of these Landholders. On Complaint several of these Riotous Persons are by Proclamation declared Traitors, & the 28th Regiment as I am told at the Governor's Request is sent to suppress them. I am far from justifying these riotous Proceedings; I only observe the difference of Sentiment & zeal in this case & in others where the authority of Parliament was contemned, & the Kings authority was continually insulted, for several months together by most dangerous Riots

* Proclamation of Sir H. Moore, declaring that—Pendergast and six others had committed high Treason & offering £100 for him & £50 for each of the others.

without the least attempt to suppress any of them but rather with public applause.

As it must naturally be thought that this Resentment in the Assembly against me, must arise from signal misbehavior in my administration I beg leave to say that only one thing has ever been alledged against me, and no other I can confidently assert can be. It is this. An Appeal was brought before me & the Council from a Verdict & judgment of the Supreme Court of Common Law in this Province, in pursuance of his Majesty's 32nd Instruction. I supported in my Judgment the right of appealing as to the whole Merits, & that the intention of the Instruction was such against the Opinion of the Judges, and of all the Gentlemen of the Council. Nevertheless I submitted to the Judgment of the Court: but as an Appeal from the Judgment of the Governor & Council was carried to the King in Council, I thought it incumbent on me to give the Reasons of my Dissenting from the Opinion of the Council in my Letters to my Lord Hallifax & to the Board of Trade. The Judges assert that no Appeal can be made from the Verdict of a Jury. If this be the case, the Right of appealing in every case may be defeated. The Jury may in every case find generally Guilty or not Guilty, for the Plaintiff or for the Defendant; and in Cases where the King is concern'd such general Verdicts may be encouraged by the Court. In such Case no Error can be Assign'd against the judgement, & it must be final in the Colonies. As the King's authority & the Rights of his Crown, are only secured by his Courts of justice, it is evident that without an Appeal to some Court in Great Britain, the authority and Rights of the Crown in the Colonies may become precarious & likewise Dependency of the Colonies on the Parliament. I may have erred in Judgment very innocently, but I have good reason to think I have not, since the King by his Order in his Privy Council of the 26th of July last has confirm'd my judgement. The present Spirit which so generally prevails

in the Colonies too clearly shows the reason of the great offence taken against me on this occasion, by the present Demagogues, but I flatter myself that this will be so far from doing me any prejudice in his Majesty's Esteem, that it will recommend me to his favour. The right of appealing on the whole Merits appears to me so necessary for securing the Dependency of the Colonies & the Rights of the Crown, as well as private Property against powerfull Combinations, that it well deserves the interposition of Parliament if it should be thought necessary for confirming it; and I hope this will excuse me for entering again on this subject after what I have wrote formerly on the same subject.

Allow me in the last place to entreat your good offices with his Majesty in my favor, & that you'll please to let me know the Kings pleasure thereon. I have the honor to be with the greatest Respect

TO M^r PETER COLLINSON, LONDON.

New York, Sept^r 12th 1766.

DEAR SIR,

I have your kind Letter of the 16th & 17th of May, with a Post Charriot from on board the *Hope*. There is not a handsomer in this Place, & I am perswaded the work is good. I was displeased with myself that I had not desired you to Insure, & I am obliged to you for makeing up that Defect, tho' it has come safe.

Sir Jeffery Amherst's Letter to you shews how much I am oblidge to him for his Friendship. On the 24th of June I inform'd the Secrettary of State, that the Assembly of New York would not Grant any Recompence for my loss tho' they amount to £595. 3. 0. At the same time I wrote to Sir Jeffery on the same subject; but I could receive no answer at this time. I still hope the Ministry will some how recompence me. Please to let Sir Jeffery Amherst know by a Line that

you will pay any Expence that may be necessary for obtaining the King's Warrant for that purpose, & desire his directions in employing a proper person to take it out if it be granted.

You have my dear friend, my Interest on all occasions so much at heart, that I cannot sufficiently express my Gratitude, as it never can be in my power to return it. The public affairs in this Province are far from being settled. Our present Governor acts oddly, & does not please those whose favour he courts. A general diffidence is entertained of him. I am with the highest Esteem, Y^r most

TO SIR JEFFERY AMHERST, KNIGHT OF THE BATH.

Spring Hill, Nov^r 10th 1766.

SIR,

I am so much convinced of your generous friendship, that I am perswaded that the only reason of my not receiving some notice of the good effects of it, must be from the difficulties you have met with in your sollicitation in my favour. Being conscious of the disinterested motives of my Conduct in that part of my Administration which has excited the malice of a most daring faction, their success to my prejudice, while I am neglected where I expected Approbation and Protection, must affect me greatly. I am sufficiently sensible of how little consideration I am personally; but in my public Character I expected some regard both from Justice and good Policy. While I willingly gave up my private Interest, I cannot, on the strictest reflection, charge myself with any neglect of the public Interest, or that I did anything which could have been prudently omitted without neglect of my Duty.

As we are well assured that many Papers published in New York to my prejudice, have been transmitted to Persons of distinction in England, my children have

earnestly pressed me to vindicate my character from the Calumnies so publicly & industriously propagated, & my Friends have likewise advised me to it. This induced me to send by Captain Montessor, a brief account of my Conduct, in those parts of my administration, which have been found fault with, to Mr Collinson; and I now give directions to have a small number printed and distributed, in such manner as may be thought most proper, to vindicate my character in England as well as in America. Particular care is taken to avoid offence to any Ministry either past or present.

I think it incumbent on me Sir to inform you of this because I should have been extreamly glad to have had your approbation before it was done; but I know not how improper it may be to desire it, at this distance. I flatter myself it will give you some pleasure to see me entirely cleared from every aspersion. When this is done, you may more freely use your Interest in my favour: & I may with more confidence assume the honour of being with the greatest respect, Sir.

TO M^r PETER COLLINSON.

New York Nov^r 10th 1766.

DEAR SIR,

I hope you will have received my Letter by Capt^a Montresor, an Engineer in the Army, before this comes to your hand. By him I sent a vindication of my Conduct in the Government of New York, in the parts of it which have been blamed, which I propose to have Printed for my vindication. I delayed giving particular directions for this purpose in hopes of hearing from Sir Jeffery Amherst by the Packett, but am disappointed, and as I have not the least doubt of his Friendship I think the publication the more necessary. I think it will not exceed four sheets in Print and per-

haps may be contained in three. One hundred and twenty Copies to be Printed of which twenty to be sent to me by the first merchant Ship. Please to give particular direction for the care of them, & direct them put up in a Packet to my Son Alexander.

On the other side is a List of Members of Parliament to whom I imagine it may be of use to send each one copy put under Cover, directed to each of them by his proper Designation, without mentioning any office he may hold, to be left before Noon at his town residence which may be learned from the Court Calendar. I suppose you can agree with the Printer to have all this done by his Servant or in any other manner you shall think best. Please to add any other names that you may think proper. Please to take what remains into your Custody for any use you like best, I shall be glad that any Person you value may retain a good opinion of me, & D^r Fothergill among others. If any proper opportunity offers I am desirous that a Copy be sent to the Rev^d Doc^r Robertson, Principal of the University of Edinburgh. The best time for distributing of them I think will be soon after the meeting of Parliament.

But in first place before any be distributed I must beg the favour of your sending three Copies to Sir Jeffery Amherst, to be left at his house near Whitehall with a Line from you that you send them to him at least a Week before any other are distributed. This I propose to you that in case he think proper in any manner to interpose or direct you may have a proper regard to it.

The expence to be out of my money in your hands.

You have in every instance shewed such regard to everything which concerns my welfare or Reputation that I am confident you will excuse this uncommon trouble which I entreat you to take to wipe off the vile & cruel aspersions of malicious men occasioned merely, without other Provocation, by my Adherence to my Duty in the Service of my King & Country in op-

position to iniquitous purposes prejudicial to the Kings Authority and the safety of the People. Had this been the case of a stranger your nature would have inclined you to take trouble to serve him after you had been truly inform'd of his Case, much more so to serve your most affectionately obliged friend, and humble Serv^t.

SIR JEFF. AMHERST,
1st L^d TREASURY,
CHANCELLOR OF EXCH^r,
TWO SECT. STATE.
PRE. OF THE COUNCIL.
L^d CHANCELLOR
L^d MANSFIELD
EARL OF HALIFAX
WINCHELLSEA
EGLINTON
TEMPLE
CHATHAM
BUTE
GOWER
NORTHUMBERLAND
HILSBOROUGH

L^d V. TOWNSHEND
L^d LYTLETON
R. H. SIR JOHN CURT
R H. GEORGE GRENVILLE
R. H. ROBERT NUGENT
R H. SIR GILBERT ELLIOT OF
MINTO
SIR CHARLES SAUNDERS,
K.B.
THO^s ORBY HUNTER
HON. ARCHIBALD MONTGOMERY
L^d ADAM GORDON
L^t COL. JAMES PRINGLE
SIR FLETCHER NORTON
D^r HUCK A PHYSICIAN

At this distance it seems uncertain who may be in the public offices, & therefore their proper designations are not mentioned—But the copies are to be sent to their House in Town & directed by their proper designation, not by that of their office.

TO WILLIAM NICOLL, ESQ, SPEAKER OF THE GENERAL ASSEMBLY.

Spring Hill, Dec^r 1st 1766.

SIR,

Last Sessions of Assembly my Son communicated to you an account of the Loss which I sustained on the first of November 1765. He attested the account be-

fore a Magistrate, and delivered it, in the manner you was pleased to advise. The account was received by the House of Assembly and referred to a Committee; as appears by your printed Minutes. I did not imagine that anything more was expected of me, when no Order or Resolution had been made thereon. The reimbursement of the Losses sustained at that time, I did not conceive to be made as on a Demand of a Debt due from the Province, but to be a free act of Gratitude to the Parliament of Great Britain, every reiterated application therefore, which might make the act of the Assembly appear less Voluntary, I suspect may be disagreeable to the House.

You know Sir, that in the last act for the payment of the Officers Salaries, no provision was made for my Salary from from the 1st of Sept^r to the 13th of November 1765, tho' all the other officers of Government have received their Salaries for that time. I know of no Case similar to this. I think the Salary for that time is a Debt justly due to me, and I know no reason why the payment of it is neglected. Please to Communicate this to the House, and to let me know their pleasure thereon. I am with great Regard, Sir, &c.

TO THE R. H. EARL OF SHELBURNE

New York, Dec^r 26th 1766.

MY LORD,

In my Letter to M^r Secrettary Conway of the 24th of June, I informed him that the Assembly in their Session in June last, would not recompense me for the Losses I sustained by the Mob, the 1st of November last year. They have again in their last Sessions refused payment with the reason annexed, that I had brought them upon myself by my misconduct.

However I can make no doubt your Lordship on considering my whole Conduct, will think otherwise:

that I have done nothing but what my duty required of me. This patronizing & defence of the shameful insults on their Governor by a savage Mob, in a manner destructive of all Government, such as have rarely happened in any civilized Country gives strong proofs that the Riots & Tumults which happened at that time & continued for some Months after I had retired, were instigated and promoted by a dangerous Faction, which now leads & directs in the House of Assembly; and that they have not abandoned the views which they then had.

As this Faction has and continues to asperce my Character by Calumnies repeatedly published, and have likewise propagated them by their printed Papers delivered by their direction to Persons of distinction in London, I have thought it necessary at the earnest desire of my Children, & by advise of my Friends to have a printed Narrative of my Conduct delivered to his Majesty's Ministers & to some other Persons of distinction, to whom as I am informed, the faction have endeavoured to give prejudices against me. His Majesty's Ministers have formerly been informed of everything contained in this narrative, but as this was done of the several Matters separately, & at distant times, I think it may be of use to them, to have the whole reduced under one view.

My Duty required me to oppose the designs of this prevailing Faction which I am confident will appear from this Narrative to be dangerous to his Majesty's Authority & the Rights of his Crown in this Province & that they likewise evidently tend to render private Property & the Administration of justice precarious. This I did Knowing that the doing of it, unless I be supported by his Majesty's favour, must be extremely prejudicial to my private Interest, & of my family who must remain in this Country.

I informed Mr Conway likewise that the Assembly had refused to Pay the Sallary which was due to me at Sir Henry Moore's arrival. Application was made

again in their last Session. They, after referring the matter from one Committee to another, broke up without doing me this justice.

The method taken to deter the officers of the Crown from their Duty certainly deserves the attention of the King's ministers. Perhaps, no officer at this time, dare make a seizure in the Colonies where all restraints on Trade are unpopular; & where it may be in the power of a single Man, to set the Mob upon him.

Your Lordship may believe that I am under much concern that my Conduct may appear to his Majesty in its proper light, for no Man (however I may have err'd in any particular instance) can have a more sincere desire than I had to perform my Duty, while the Administration of Government was in my Hands. This emboldens me to entreat your Lordship's interposition with the King, for some instance of his approbation & favour, after haveing suffered so much by meer malice, as thereby the other officers may be encouraged in their Duty, at a time when such incourage seems necessary.

Nothing can give me more pleasure than to know that I stand well in your Lordship's Opinion, & that I may be allowed the honour of being, My Lord.

TO SIR JEFFERY AMHERST.

SIR,

Your uncommon friendship by endeavouring to obtain some recompence for my Losses in his Majesty's Service makes it incumbent on me to inform you of every step I take. By this conveyance I inform Lord Shelburn that in the last Session of Assembly I had renewed my application for recompence of my Losses and for my arrears of salary. They have now given an absolute refusal with this reason added in their printed Minutes that I had brought them upon myself

by my misconduct. I suppose they mean that I had provoked the People, by putting the Fort in a Posture of Defense. Before the 1st of September the garrison consisted of a single Company of Royal Americans, which the General sent in at my desire, after every soldier which had been in Garrison were sent away on different services.

While I was in the Country as usual during the Summer heats Major James, without my knowledge, introduced a number of Howitzers & Royals, with their proper Ammunition, together with two Companies of the Artillery Regiment arrived at that time from England, and soon after all the Howitzers belonging to the Army were brought into the Fort.

After the Mob on the 1st of November, the Engineers were ordered by the General to put the Fort into the best posture of Defence, and all the officers then in Town except those of the General's Family were ordered into the Fort, and several Detachments of Private men came in at different times. The daily Guard consisted of a Field officer, two Captains & four Subalterns. The Barracks were so full that I was obliged to Lodge 30 Privates in my Servants Apartments, & Lodge & Entertain the Officers in my own House. At the same time I furnished the whole Garrison with fire wood & Candles. This was an Expence of which I could keep no account, and I have made no charge of it. The General in this time made me a Visit, as I have no military skill I desired him to take the command of the Fort, which he refused, but afterwards desired me to have 60 Men in readiness to March out for his defence in his House, being threaten'd by the Mob. I have not mentioned these particulars in any of my public Letters, being obliged to write largely on matters which I thought of greater importance.

There was Force sufficient in the Fort to suppress any Mob & to keep the Town in obedience if it had been thought proper to use military force at that time.

It is a very extraordinary Argument made use of by

the Assembly that the taking the measures necessary for defence, should be thought a sufficient reason for all the riots tumults and mischiefs which ensued, & this after the officers of Government were openly & publicly threaten'd & shamefully insulted in their Duty, & the People by printed Papers repeatedly every dispersed were excited to take all power into their own hands. This Principle of the supreme Power of the People, in all cases is industriously propagated over all North America & takes its rise from the numerous sect of Independants, of which Sect several of our principal Lawyers educated in Connecticut openly profess themselves. From this Principle the Assembly have refused to add a Clause to a Bill for emitting a paper Currency restraining the execution of it till his Majesty's pleasure shall be known, tho' they be very desirous of such an Emission. They have likewise expressly refused obedience to the act of Parliament for Quartering of Soldiers.

Our present Governor is unwilling to appear in anything which is disagreeable to the Assembly. His principal view is evident, and he loses his influence daily.

By this Conveyance I inform the Earl of Shelburne of my having ordered a Narrative of my Conduct in the principal parts of my Administration to be Printed, and that Copies be delivered to the King's Ministers that they may have under one view the several informations I had formerly given on different subjects & at distant times, & that thereby they may be better enabled to judge of my Conduct. I flatter myself that nothing in this Narrative can displease any Person in Great Britain.

By an unlucky accident I lost the opportunity of sending my Letters by the Packet. I now send them to go by some Merchants ship. I am with greatest gratitude & desire of preserving your Esteem, Sir,
Y^r

TO HIS EXCELLENCY SIR HENRY MOORE B^T GOVERNOR
&c.

Spring Hill June 9, 1767.

SIR,

This morning I have the honour of your Letter of yesterday's date. In my present situation I cannot recollect what has passed relating to Samuel Robinson the Petitioner, but I am confident every thing is particularly set forth in the Minutes of Council on that subject, Copies of which I transmitted to the Plantation Board, so that had the Petitioner related matters of fact with that precision he ought to have done there would have been no need of referring to your Excellency for an Answer, as to any matter relating to him, the whole being fully set forth in those Minutes.

I can only in general recollect that several of the Proprietors of Lands in this Province complained to me that this Robinson with many others had riotously entered & forceably dispossessed them & their Tenants of Lands which they held by Grants in this Province and had improved above sixty years; in consequence of which legal Process was taken in the Courts of this Province against these unlawful Intruders & Rioters; and I did by the advice of Council issue a Proclamation, the purpose of which I cannot at present recollect, but will appear on the Minutes of Council. This Government was highly provoked to find that the Inhabitants of New Hampshire under pretence of authority from their Government, should pass over 50 Miles of uncultivated Lands on the West side of Connecticut River, & forceably enter on the Lands in this Province which had been for so long a time peaceably held & improved. I cannot in my present situation inform your Excellency more particularly, but you can be fully inform'd by the D. Secrettary & the Surveyor General of Lands who knew everything relating to

these affairs, as much as I did, & no doubt will readily inform you.

It is true that I promised to several Settlers on the West side of Connecticut River, that I would regrant to them the Lands that they had bona fide in possession, and I pursued to perform this promise while it was in my power to do it; but it was impossible I should make such promise to this Robinson who I knew had settled on Lands already Granted to others, and who had been so notorious a disturber of the Peace in that part of the Country. In the Grants which I passed after I had made this promise, the Lands possessed by the New Hampshire People were excepted. I have the honor to be with great respect, Sir

EXTRACT OF A LETTER FROM M^r S——Y C——Y TO
MAJOR GEN^l GAGE.

December 15, 1765.

SIR,

I had the favour of your Letters of the 4th 8th & 9th of November last, by which I learn, with the utmost concern, the disordered state of the Province where you reside, & the very riotous & outrageous behaviour of too many of the Inhabitants.

I did not fail to lay your Dispatches together with those of Lieut. Gov^r Colden before his Majesty, who tho' highly provoked by such an insult offered to his Governor there, is however pleased to hear that matters were not pushed to such extremity, as might have cost the lives of many of his subjects, & might perhaps have tended, as you seem apprehensive to the great detriment if not ruin of the town of New York, particularly if the Fort had fired on that insolent and infatuated Mob, which so provokingly approached. The Temp^r shewn as well by Lieut Gov^r Colden, as by the Officers there, is highly to be commended. His

Majesty is willing to suppose that both yourself & Gov^r Colden have acted on principles of Duty to his service, in the advice and resolution formed to put the Stamped Paper into the hands of the Magistrates of New York, which, however, unless the necessity for it appeared very pressing, must certainly be looked upon as a step greatly humiliating and derogatory to his Majesty's Government.

If the Post was not tenable, or the Papers insecure there, it should seem much preferable to have put them on board the *Man of War* as was proposed, nor does there appear any good reason, why Captⁿ Kennedy refused to take them.

It is difficult at this distance to judge with the same propriety, of the conduct to be held on occasions of such difficulty & importance as on the spot. Had the personal safety of those in the Fort alone been considered, I am perswaded there would not have been a moment's hesitation about the defence of it, against any attack that might rashly have been attempted: Nor can his Majesty suppose the least want of resolution for his Service in those who in their different stations have given so many proofs of their regard for it. It should otherwise seem that the reality of the Mob's being armed & prepared for an actual attack, should have been well ascertained before the papers were given up.

A Copy taken from a Pamphlet Intituled *The Conduct of the late Administration Examined with an Appendix, containing original & authentic Documents*—London, Printed 1767—Boston, Reprinted, 1767.

TO THE RIGHT HON^{BLE} THE EARL OF SHELBURN.

New York Oct^r 20th 1767.

MY LORD,

I had the honour of informing your Lordship, by my Letter of the 26th of December last year, that the As-

sembly of this Province had refused to compensate my losses by the Mob the 1st of Nov^r 1765, or to pay the Salary which was due to me at Sir Henry Moore's arrival, amounting to £400 Money of this Province and in the whole to £595 : three Shillings. This Letter was by his Majesty's Command laid before the House of Commons, & I flatter myself that the House of Commons had regard to my Sufferings, when they address'd his Majesty nemine contradicente, the 15th of May last, that his Majesty would be graciously pleased to confer some mark of his royal favour on those Governors and officers who had distinguished themselves by their zeal & fidelity in supporting the dignity of the Crown, the just Rights of the Parliament, & the Supreme authority of Great Britain in the Colonies, during the late disturbances in North America.

When these Resolves were known in New York, I had the pleasure to hear all Ranks of People, even those who had opposed me, apply that address in my favour, and my fidelity, at that time, in the Administration of the Government universally acknowledged.

Notwithstanding of this I expect that the Faction in opposition to me will represent me as obnoxious to the People of this Province, when any of them can have access to any of his Majesty's ministers: for with other purposes, they had in view to make this be believed, when, after the People's minds had been inflam'd against the Stamp Duties, they instigated the Mob to insult me, and surprised the Assembly into the Resolves published against me. If such representation be made, I beg that they be required to give an instance, at least, wherein I have injured the People of this Province, or any private Person in it.

MY LORD, I am an old Man, I have lived 50 years in this Province—above 40 years of that time a Member of his Majesty's Council. My character is well known, and I am confident remains without Blemish. I have brought up a large family with credit, I have several Great Grand children. My Mind did not suf-

fer me to pursue those Methods by which others have risen to affluence in this Place. I wish my children may receive some advantage by the Conduct which I thought most becoming the Rank I have in the Province, tho' at the same time, I knew it might be to the prejudice of my Family, as it has really happened.

The occasion, I hope, will excuse my writing so much of myself, which I think not only due to my own family, but likewise because any regard which his Majesty may graciously please to shew to an old faithfull servant, may encourage every servant of the Crown in America in their Duty, especially those whose families must remain in any of the Colonies, and my case being well known over all the Colonies, the issue of it must have a general influence on Men's Minds.

With great confidence in your Lordship's justice and Benevolence, I humbly beg your favourable representation of my case to the King; for I cannot doubt of his Majesty's regard to an old faithfull servant, when apprised of his case. I have the honour to be, with the greatest respect and submission, My Lord, &c

TO LACHLAN McCLEAN ESQ UNDER SECRETARY IN THE
SOUTHERN DEPARTMENT, ST. JAMES'S. Oct^r 20th
1767.

TO SIR JEFF^r AMHERST—Oct^r 20th 1767.

TO M^r PETER COLLINSON—Oct^r 20th 1767.

TO THE EARL OF SHELBURNE.

New York, Nov^r 23, 1767.

MY LORD,

The disagreeable situation to which I am exposed from my attachment to my Duty, while the administration of the Government of this Province was in my

Hands; and at all times to his Majesty's Interest, and the authority of the supreme legislature of Great Britain over the Colonies, I presume would at any time recommend me to the consideration of his Majesty's Ministers; but especially at this time when directly opposite political Principles so universally prevail; and so few, so very few indeed in this Province, shew any regard for the mother Country, or any inclination to support the authority of Parliament. But, my Lord, when the Courts of Justice and a malicious Faction, combine to vent their Resentment against me, on account of my public Conduct, I presume my Case becomes of a much more public and interesting nature; and that the justice and necessity that I be protected and supported will entirely excuse me with your Lordship, for the trouble I am obliged again to give you an account of some late transactions here.

[B. T. 1.] Some time last Spring a Pamphlet intituled *The Conduct of Cadwallader Colden, Esq^r. Lieutenant Governor of New York* was printed in London, and copies of it were delivered to his Majesty's Ministers, and to several Members of Parliament. This was done because it was known that several printed Papers had been dispersed in London to the prejudice of my Conduct in the administration. Particular directions were given that no copies should be sold. A few of them were sent to this Place which I gave to my Children and some Friends, to remain with them in vindication of my Character. A Printer here, by what means I know not, obtained a copy and Reprinted it without my privity: it is said a Lawyer, who is one of the Judge's sons, furnished him with a manuscript copy, privately taken from one of the copies printed in London. I had no inclination to appeal to the People, on a subject which comes properly before his Majesty's Ministers; or to excite the malice of the Faction anew against me.

[B. T. 2.] The Supreme Court of this Province met the third Tuesday of October last, and after they had

sat ten Days, the Chief Justice, in the afternoon of the Day before the Term ended, charged the Grand Jury for the City of New York with the Pamphlet printed in New York: the next Day before Noon they presented it, *as a very vile, infamous, false and libellous Reflection on his Majesty's Council, Assembly, Courts of Justice and the whole body of the Law in this Province.*

[B. T. 3.] I am well inform'd that some pains had been taken to get the Grand Jury to Present the Pamphlet, as if of their own accord; but they could not be prevailed on—That as the Grand Jury were going up to the City Hall, expecting to be discharged as usual at that time of the Court, they were met by Mr Levingston, the 4th Judge of the Court, He asked them if they intended to present the Pamphlet. They answered they did not. He told them they would not be discharged till they had. That the Jury when in Court were again asked the same Question, and gave the same Answer. That some of them added they knew nothing about the Pamphlet. Judge Levingston then gave them a Copy of the New York Impression, and the Chief Justice charged them in very strong Terms to present it, nearly in the Words they afterwards made use of. Persons acquainted with the great influence of the combined power of the Bench and Bar in New York and of other leading Men who may be displeased with the Pamphlet, will be less surprised that the Grand Jury should be induced to make a Presentment contrary to their own Sentiments. The influence of such a Power with Men largely concern'd in illicit trade must be great indeed.

[B. T. 4.] I am well assured that a greater quantity of Goods has been Run without paying Duties since the Repeal of the Stamp Act than had been done in ten years before. Whole Cargoes from Holland and Ship Loads of Wine has been Run besides what is done in the usual way of smuggling. This could not be effected without numbers of People knowing it. They have

been so daring it is no secret in the country. Men concerned in such a Trade, and very few Merchants in New York are not, must stand so much in awe of the Courts of Justice, and of the Lawyers, that nothing but a conviction of the Truths contained in that Pamphlet, and some remainder of moral sentiments, could make them hold out so long against assiduous and repeated Importunities.

The Proceedings of the Court, and this Presentment have made the proper impressions on the Minds of the People,—no way to my prejudice. But the view is to make the same use of it with the King's Ministers, that was intended by the Assemblies Resolves of the 14th of December, 1765. Notwithstanding of the public Efforts here, and the private insinuations of their friends in England, I am confident the force of Truth will at last prevail.

The Facts alledged in that Pamphlett may all be proved from the Minutes of the Proceedings of the Council and Assembly of this Province, lodged in the Plantation office. Some glaring instances of the virulence and malice of the Faction were omitted, because the proofes of the Facts are not in England. In the reasoning part, on the propriety of Appeals to the King, the Argument is taken from the similarity of the State of the Courts of Justice here, with those of the Counties in England, at the time mentioned by Judge Hales in his History of the Common Law, when all Causes were carried by Parties, Faction and Interest. The knowledge I had of these Things, strongly induced me to support the Right of appealing to the King, as a remedy against those great Evils—I may add that there is not a disinterested Person in this Province, acquainted with the Proceedings of the Courts who does not complain in private Conversation, tho' they be affraid to Speak out their Sentiments in Public. The Council, while I had the Administration were so sensible of the abuses in the Courts of Justice, that in two different Sessions they brought in a Bill for regulating

the Practice of the Law. But the Lawyers, with the assistance of the Judges who had seats in the Council found means to have it drop'd.

[B T. 9.] The publications continued in the News Papers from the year 1765 to this time afford a strong proof My Lord of the disposition and state of the Courts of Justice here. Papers denying the Authority of the Parliament over the Colonies—Declamations exciting the People to oppose the execution of acts of Parliament in the Colonies; and filling their Minds with the most despicable Ideas of the Parliament, his Majesty's Ministers and officers of Government.—Every suggestion that could tend to lessen the attachment to the mother Country, and to raise an Odium against her, have been repeatedly published. The People are familiarised to read Seditious if not treasonable Papers—Of these notorious Proceedings the Courts of Justice have not taken the least notice, or made the smallest attempt to suppress or discountenance them. But a vindication of their Governor, who during his administration endeavoured to support his Instructions and the authority of Parliament, has, at the instance of the Judges, been presented as a vile infamous Libell.

Had there been any regard to the dignity of Govern^t the Complaints against their Lieutenant Governor would have been made to the King or his Ministers, in which Case I should willingly have answered.

The Assembly in the last Act they pass'd for Providing for the Troops Quarter'd in this Province, have carefully avoided to acknowledge the authority of Parliament. An opinion is industriously infused into the Minds of the People, that the legislative authority of Great Britain does not extend to the Colonies, by Men, who from their Profession, are supposed to understand the Constitution best. When this Opinion prevails generally among the People, no Jury will form a Verdict on a Law which they think has no authority in the Colonies. I have heard some Men place their confi-

dence in this that, no Man can be punished in the Colonies for his disobedience of an Act of Parliament.

If such be the state of the Courts of Justice in this Province, as it seems too probable to be, it may be impossible to enforce the authority of Parliament, unless disinterested Judges and Law Officers be appointed, of known Integrity and abilities. A military Force may protect the Persons of the officers of the Crown, but cannot punish any disobedience of the Laws; and in such case the greatest confusion and disorder must be produced.

Tho' I have this satisfaction my Lord, that in the administration of Government, I was only swayed by sentiments of Duty: yet my Conduct has drawn upon me the most implacable Resentment of Men who profess Principles inconsistent with the dependance of the Colonies on the mother Country—subversive of his Majesty's Rights and Authority, and destructive of the security and property of the subject

[B T. 13.] I am the only Governor in America who suffer'd from the frenzy of the deluded Mobs in 1765—and I am the only Person in this Province to whom ample reparation has not been made.

I alone have received no benefit from the Resolves of the House of Commons on that subject. My Character has been aspersed in the basest manner and the malevolent assurance with which the Faction persevere to make me feel their Resentment increases while I am suffer'd to remain without any marks of his Majesty's protection or approbation. Should this continue to be my situation, I may fear the worst that Malice and Power can do; among a People whose daily breach of Laws, disqualifies them to oppose or displease those to whom the execution of the Laws is committed. And probably few hereafter will expose themselves to such Malice by adhering to the Principles upon which I have acted, or by giving Informations which may be so dangerous to themselves, without hope of being supported or protected.

His Majesty's authority in the Colonies, and the Interest of Great Britain are so connected with the Matters I have the honor to inform your Lordship of, that I cannot doubt of your excuse for so long a letter; and I hope you will think it proper to lay my Case before the King.—I am with the greatest Respect & Submission, My Lord, Your most Obedient & faithfull servant.

TO THE BOARD OF TRADE.

New York Nov^r 23^d 1767.

MY LORDS,

Some time last spring a Pamphlet intituled *The Conduct of Cadwallader Colden, Esq, Lieutenant Governor of New York* was printed in London, and Copies of it were delivered to his Majesty's Ministers, and to several Members of Parliament. This was done because it was known that several printed Papers had been dispersed in London to the prejudice of my Conduct in the Administration. Particular directions were given that no copies should be sold. A few of them were sent to this Place which I gave to my Children and some friends to remain with them in vindication of my Character. A Printer here by what means I know not, obtain'd a copy and Reprinted it without my privity: it is said a Lawyer, who is one of the judge's sons, furnished him with a manuscript copy privately taken from one of the copies printed in London.

The Supreme Court of this Province met the third Tuesday of October last, and after they had sat ten Days, the Chief Justice in the afternoon of the day before the Term ended, charged the Grand Jury for the city of New York with the Pamphlet printed in New York. The next day before noon they presented it, as a very vile, infamous, false and libellous Reflexion on his Majesty's Council, Assembly, Courts of Justice and the whole body of Law in this Province.

I am well inform'd that some pains had been taken to get the Grand Jury to Present the Pamphlet as of their own accord, but they could not be prevailed on— That as the Grand Jury were going up to the City Hall expecting to be discharged as usual at that time of the Court, they were met by M^r Livingston, the 4th Judge of the Court. He asked them if they intended to present the Pamphlet. They answered they did not. He told them they would not be discharged till they had. That the Jury when in Court were again asked the same Question, and gave the same answer. That some of them added they knew nothing about the Pamphlet. Judge Livingston then gave them a Copy of the New York Impression, and the Chief Justice charged them in very strong Terms to present it nearly in the Words they afterwards made use of. Persons acquainted with the great influence of the combined power of the Bench and Bar in New York and of other leading Men who may be displeased with that Pamphlet will be less surprised that the Grand Jury should be induced to make a Presentment contrary to their own Sentiments. The influence of such a Power with men largely concerned in illicit Trade must be great indeed.

I am well assured that a greater quantity of goods has been Run without paying any Duties than had been done in ten years before. Whole cargoes from Holland and shiploads of Wine have been run besides what is done in the usual way of smuggling. This could not be effected without numbers of People knowing it. They have been so daring it is no secret in the Country. Men concerned in such a Trade, and very few Merchants in New York are not, must stand so much in awe of the Courts of Justice and of the Lawyers that nothing but a conviction of the Truths contained in that Pamphlet and some remainder of moral sentiments could make them hold out so long against assiduous and repeated Importunities.

The Assembly of this Province met in November last on the 23. of December M^r Livingston one of the

Judges of the Supreme Court and member of the Assembly introduced the consideration of that Pamphlet into the House & moved that a Committee be appointed to inquire into it which was done and M^r Livingston carried a message from the Assembly to the Council desiring them to appoint a Committee to join a Committee of the Assembly to take that Pamphlet under Consideration. Three of the Council were named for that purpose; Men who are known to be very warm in the matters which are the subject of that Pamphlet.

On the 30th the Report of the joint Committee was made in the Assembly, consisting as might be expected of most violent censures on the Pamphlet; and proposing that a Committee of assembly should be appointed to examine & report the unjust charges with an ample and satisfactory refutation to discover the Author and publisher; and declare what they conceive to be the most prudent and effectual measures for applying suitable *punishment* deterring others from so iniquitous & dangerous an offence. It is believed however they will not attempt any other refutation than by such bold assertions. I have heretofore informed your Lordship that the matters of fact related in my Vindication, can be proved from authentic Papers—The minutes of the Proceeding of the Council & assembly now in the Plantation office. I have not been able to discover that any one fact has been pointed out as false which was not to numbers of People notoriously true. To a general charge of falsehood and misrepresentation I can give no other answer. When the Assembly proceed to be more particular, I doubt not I shall be able to give the most satisfactory answers.

But your Lordship will please to observe that the joint Committee have suggested measures for *punishment & deterring others*. This I presume will sufficiently shew the necessity I am under of writing to your Lordships in the manner I now do. The Parties against me are both Prosecutors and Judges—they have all the Power in their Hands, and I may de-

pend on it they will omit nothing to injure and ruin me.

The Assembly have proceeded to Examine several Persons relating to the Pamphlet, among whom were my eldest Son & Son in Law. People without doors speak of such steps as inquisitorial and destructive of all private Security. Your Lordships will please to observe that this has an evident tendency to influence Juries and to favour a cruel Prosecution. The faction have so long succeeded by such bold assertions and by intimidating while nothing has been done to support the officers of the Crown that all men are affraid to appear in opposition to the power. It were better my lord to bring up the Colonies at once than thus to expose the friends of Great Britain to ruin & the most cruel treatment. It is known that they intend to proceed in the Supreme Court upon the same matter. That Court is now sitting; the term commenced last Tuesday. The Report of the joint Committee of which I inclose a copy was published the preceeding Day.

It is certain the sentiments of disinterested People have altered greatly, with regard to my Conduct since the publishing of the Pamphlet here. The notorious truth of the Facts is every day mentioned by many people.

The publications continued in the News Papers from the year 1765 to this time afford a strong proof my Lord of the dispositions and state of the courts of Justice here—Papers denying the authority of the Parliament over the Colonies—Declamations exciting the People to oppose the execution of Acts of Parliament in the Colonies; and filling their minds with the most despicable Ideas of the Parliament, his Majesty's Ministers and officers of Government.

Every suggestion that could tend to lessen the attachment to the mother Country, and to raise an odium against her have been repeatedly published—The People are familiarized to read Seditious if not treasonable Papers. Of these notorious Proceedings the Courts of

justice have not taken the least notice or made the smallest attempts to suppress or discountenance them. But a vindication of their Governor, who during his administration endeavoured to support his Instructions and the authority of Parliament, has, at the instance of the Judge, been presented as a vile infamous Libell.

If there were no other proofs of the dangerous state of the Courts of Justice in this Province as set forth in my Vindication the present proceedings must put it in doubt, on the least reflection.

Yet my Lord when Judges are Prosecutors, backed by the influence of the Council and assembly and of the Lawyers who have a prodigious weight in this Government it may well be said that Juries will not have resolution enough to oppose such a Power.

My friends assure me that from several incidents it appears the design of my Ennemyes is to ruin my Fortune. When a Governor who is charged with nothing but obedience to Kings Instructions and submission to an act of Parliament, cannot defend himself against the malice & resentment of Men who openly deny the authority of parliament and submission to the mother Country, and he be not effectually supported and protected, what officer of the Crown will dare to perform his duty? I am the only Governor in America who suffered from the frenzy of the deluded Mobs in 1765 and I am the only Person in this Province to whom ample reparation has not been made. I alone have received no benefits from the Resolves of the house of Commons on that subject. The Assembly refused to pay the Sallary due me for the last part of my Administration is a dangerous unconstitutional precedent. This with my Losses by the Mobs amount to the sum of £595:0:3:

My case must have a great influence upon all others, and in that light alone I presume your Lordship will think it deserving your attention but as it is the case of an old servant of the King's who throughout a long life has been attached to the Interest and Authority of the Crown, and who has incur'd the dangerous resentment

of a powerfull faction by a faithfull discharge of his Duty to the best of his abilities may he not my lord hope for immediate protection & favour of his Majesties Ministers especially as his receiving no marks of either must give the greatest assurance to his Enemies.

I have at several times while the administration was in my hands informed the Kings ministers that it is impossible that Justice can be administered to the people or the rights of the Crown & Dependance of the Colony be shewed, without disinterested Judges, men of Integrity & ability sufficiently supported without depending on the pleasures of an assembly yearly for their scanty support: and I gave my opinion that our present Judges are not such nor properly supported & that it would be difficult to find one in this Balance. Had Judges properly qualified been on the Bench in 1765 in all probability none of those seditious riots had been attempted which were carried into execution. It is not easy to support my opinion of the Judges by legal evidence. The Judges themselves, have now given proofs, by makeing themselves in the same cause Parties Accusers & Judges. I wish my lord, that you may know from indifferent persons the opinion of the people of our Judges and Lawyers, & that you may have a true account of Chief Justice Horsmanden's past conduct in life. I must again intreat your Lordship to lay my case before his Majesty for his protections against such dangerous & malicious Ennemies and to obtain some recompence for my losses and sufferings.

TO THE RIGHT HON^{BLE} EARL OF SHIELBURNE.

January 21, 1768.

MY LORD,

By my letter of the 23. of November last, I gave your Lordship an account of the extraordinary proceedings of the Judges of the Supreme Court of Judicature

in this province on a Pamphlet which has been published in England last Spring in my vindication, & Delivered to his Majesty's Ministers and several Members of Parliament for their information, and to clear my Character from the malicious aspersions which I was informed had been industriously propagated there.

This Pamphlet was reprinted in this place without my privity or of any of my friends as I am now well informed. As I make no doubt of your Lordship receiving that letter, I shall not give you the trouble of repeating of its contents.

The General Assembly of this Province met the 17th of November last. Soon after their meeting, M^r Livingston, one of the Judges of the Supreme Court & member of Assembly, attended the Council with a message from the Assembly, desiring the Council to appoint a committee to join a committee of the Assembly, to take that pamphlet under consideration, which then begun to make an influence on the Peoples sentiments. Three of the Council were named for that purpose, men who are known to have been very warm in the matters which are the subject of that Pamphlet. The joint Committee made a report. Mr. Livingstone had the Pamphlet again there & several persons were examined among them were my eldest son and son in law. This was publicly exclaimed against as a copy of a Popish Inquisition. Two days after their examinations were taken Mr Livingston very unexpectedly left the house and went some distance into the country. It is imagined he could not bring the House into such Measures as he chose. However their Proceedings in this matter are kept so secret it cannot be known what they have done or intend to do.

I think it necessary my Lord to be so minute in my narrative because I am well assured that some of the ministry have been with great confidence told that I am universally disliked by the People of this province and obnoxious to them. Such bold assertions in respect have had too much prevalence at other times, and

the faction has, by the success been encouraged to revive them. By the reprinting the Pamphlet the contents of it are now generally known. It is eagerly bought up. And People as generally declare in its favour openly saying that they know the most part of it to be true & believe the other parts. It has been frequently in publick conversation asked Why does the Council keep their proceedings secret from the L^d. Governor? Why do they not desire his attendance and hear what he has to say? It was answered, I am told that the Council did it in compassion, lest his person should be insulted by the Mob. To which was replied, that he would receive no insult unless it were by their instigation; and another replied that for the hundredth part of a farthing he would ensure the L^d. Governor, that not a hair of his head should be touched by the people.

It is true that I have not attended the Council since I left the Town, soon after Sir Henry Moore's arrival, tho' my house be within two hours travelling of the town. The reason was that Sir Henry at his arrival treated me with so much neglect to say nothing more, that I thought it most prudent to remain retired & I have never since been desired by him or by the Council at any time to attend.

The supreme Court sits this week again—What the Judges will do I cannot tell; but this I am sure of They will take every step that malice can suggest with any hope of success.

And when it is considered what influence Judges and lawyers must have on Juries who consist of Traders and a few merchants in this place are not known to be smugglers exposed to the resentment of the Lawyers no man can be secure of a Jury under such influence & there is great reason the fear that they will be influenced as the last Grand Jury was—Weak honest men are easily deluded by the artifices of lawyers. My friends assure me that from several incidents it appears their design is to ruin my fortune. When a L^d Gov-

ernor who is charged with nothing but a scrupulous observing of the Kings Instructions & submission to an act of Parliament can not defend himself against malice and resentment, & he be not effectually supported & protected, what officer of the Crown will dare to perform his duty in opposition to such a Powerfull influence! This may likewise deter any from giving information tho' of great influence.

Allow me my Lord to observe to you that the Assembly withholding from me the sallary due to me is destructive of that independency which one branch of the Legislative ought by the constitution to have of the other, and there can be no doubt that of this precedent has had an influence on the conduct of my successor.

I have at several times, while the administration was in my hands informed the King's ministers that it is impossible that justice can be administered to the People or the rights of the Crown and Dependance of the Colony be secured without disinterested Judges, men of Integrity and ability sufficiently supported without depending on the pleasures of an assembly yearly for their scanty support; and I gave my opinion that our present Judges are not such nor properly supported. Had Judges properly qualified been on the bench in 1765, in all probability none of those seditious riots had been attempted which were then carried into execution. It is not easy to support my opinion of the Judges by legal evidence. The Judges themselves have now given proof by making themselves in the same cause Parties Accusers and Judges. I wish my Lord that you may know from indifferent persons the opinion of the People of our Judges & Lawyers, and that you may have a true account of Chief Justice Horsmanden's past conduct in Life.

I must again entreat your Lordship to lay my cause before his Majesty for his Protection against such dangerous and malicious Ennemies & to obtain some gracious recompence for my losses & sufferings.

TO THE RIGHT HON^{BLE} LORD MANSFIELD.

January 22^d 1768.

MY LORD,

From your well known character I flatter myself that the occasion of my writing will excuse this intrusion from a stranger to your Person.

Last spring a Pamphlet intituled the Conduct of Cadwallader Colden Esq, L^t Governor of New York &c was printed in London in vindication of my Conduct in the administration of the Government which had been aspersed by a virulent faction in this place whose printed papers for that purpose had been dispersed not only in this Province but likewise in London. The printed vindication was delivered to his Majesty's ministers and to several members of Parliament—I make no doubt your Lordship received one of them.

I have the satisfaction in my own breast that no man could be more sincerely influenced by a sense of duty than I was in those parts of my administration which have been so maliciously aspersed—Every temptation from private interest induced me to please a faction who had so much in their power to gratify me. I was pleased with myself to be able to withstand these temptations—A man acting on such principles must be jealous of his reputation especially on the close of life. I have now lived four-score years, a few weeks only excepted. I believed likewise that the information in the vindication might be of use to his Majesties Ministers and the members of Parliament, and I flatter myself that I shall thereby obtain the protection of the Kings ministers against a malicious and dangerous faction with some recompence for my great sufferings & loss in my private fortune on that occasion, but in this I have been intirely disappointed. The facts mentioned in the vindication can be all of them proved from the Copies of the Journals of the Council and assembly lodged in the Plantation office, if it shall be thought

proper to enquire into them—Some remarks were made on the practice of the Courts of Justice, remarks were made in the argumentative part of the vindication relating to appeals which do not admit of such proof but the proceeding of the Courts at this time which is to be the principal subject of this letter, I believe will give a convenient proof to every disinterested person.

I distributed a few of the copys of the Vindication among my Children & some particular friends. It was reprinted in this place without my privity or of any of my friends as I am now well assured, for I have at all times disliked such kind of applications to the people. Directions for that reason were given that no copy should in London. The printed Copys in this place were eagerly bought up. They made a strong impression on the people in general in my favour and became the topic Discourse every where. Most of the facts are notoriously true. The faction became greatly alarmed—they thought their popularity in danger in which they partly conceive their only true and security exist. I must now beg leave to inform your Lordship of the methods taken to prevent the consequences of this loss of popularity.

In the last October term of the Supreme Court of Judicature Chief Justice Horsmanden charged the Grand Jury with the Pamphlet reciting the title of it in the strongest terms which he could conceive. The Grand Jury sat ten days after this & tho' in that time I am well assured every private method was taken to induce them to present that pamphlet they did not. In the afternoon of the day before the term ended the Grand Jury went up to Court expecting to be discharged as usual done on that day of the term. Justice Livingston accosted them before they went into Court—asked them whether they intended to present the pamphlet They answered in the negative. He replied they would not be discharged till they had. They gave a like answer to the Chief Justice on the same question after they were in Court on which he

harangued them anew, gave them one of the copies printed in New York & sent them out again. Next day by forenoon a little time before the Court broke up the Grand Jury presented the Pamphlet in the following words nerely the same in which the Chief Justice had charged them. My Lord, you know well what influence the Judges & the whole body of the lawyers must have on a jury. The Lawyers are the most active men in the Faction which has produced such disorders in this Government. Their influence is much greater in this place than can well happen in England. The Grand Jury in the city of New York consists of Merchants—Few Merchants in this Country are not perpetual smugglers & known to be such. More dutiable goods have been run since the repeal of the stamp duties than had been done in ten years before that time—They are barefacedly put on shore without entry—no person dare enform and the custom house officers are deterred from their duty. It is too evident what influence a Court must have on such Jury Men.

The General Assembly of the Province met in November—on the 23 of December Justice Livingston one of the Judges of the Supreme Court brought the Pamphlet printed in New York into the Assembly and moved that a Committee be appointed to join a Committee of the Council to enquire into that Pamphlet, &c. He went with the Message to the Council for that purpose. The joint Committee made their report on the 30 in the words of which I inclose a copy—No man of any probity I presume can draw the Consequences which this joint Committee has don from any thing in that Pamphlet. This report was printed in the minutes of the Assembly & published the day before the Supreme Court met in this January term with what intention it is published at this time is too evident. What has been don since or is intended to be don I know not, as I am now & have been since I was succeeded in the Government at my Country house 16 Miles from town. The person of their Governor act-

ing in obedience to an act of Parliament has been most shamefully insulted most dangerous riots frequently repeated in the streets asulting the officers—Burglaries committed in the face of the people—Papers are daily published at this time in all the news papers denying the legislative Authority of the parliament of Great Brittain over the Colonies exhorting the people to refuse obedience & infusing into their minds the most unworthy sentiments of the Parliament. These are openly encouraged. Not the least inquiry into the authors or publishers of them by any Court of Justice or by the Council or Assembly. But a modest Defence of their Governor in the performance of his duty is arraigned by the Supreme Court of Judicature & by the Council & assembly with an open declared intention to ruin him and his family. These pretended patriots of liberty are tyrants when in power. This report of the joint Committee consists in bold assertions without the least regard to truth in Calumny in order to excite mischievous prejudices and to intimidate any man that may appear in favour of the L^t Governor. They can take no other method with any hope of success & they are encouraged in it by the Success it has formerly had even with a Ministry and a British Parliament. They have boldly asserted things well known in this place to be false, published them here & made use of their being published in this place as an argument of their truth. What must become of the morals of a people where such proceedings are attended not only with success but with rewards?

I have repeatedly informed the Secretary of State of my difficulties in my present situation of my sufferings & losses without the least recompense and among others that the assembly had refused to pay the Salary due to me a most unconstitutional act with design to gain an undue influence on every succeeding Governor, and it has had its effect. The address of the House of Commons in favour of the Governors and officers who had performed their duty gave me great hope & in-

deed filled the Imaginations of the people in my favour, but hitherto I knew not as much as that my letters have been received. They went by the Packets.

O my lord I wish you knew the men now in power with whom I have to do. What kind of Judges we have. M^r Smith a noted Lawyer in this place who at this time is so forward to appear in the joint committee as very lately appointed by the Council. He was educated in Connecticut, a violent republican independant. He is at the head of that Sect in this province & has at all times appeared zealous in opposition to the established Church. It appears by the publications made in the newspapers by directions of the Faction that he was at the head of the tumultuous meetings of the people in 1765. He was a volunteer in the meetings of the several Committees of assembly in the Continent in October that year—The source of all the disorders which since ensued in America. He is rewarded with the highest honours and trust, while the Governor who stood the brunt of popular opposition in defence of the King & Parliaments authority is neglected & left in the power of the cruel resentment of a merciless faction who are encouraged & allowed to have the power in their hands.

Now after such neglect and discouragement I can think of no person more proper than yourself & your known humanity by whose influence I may hope to obtain redress. The method of obtaining it I must leave intirely to your Lordship's Prudence. I beg earnestly one favor at least to know whether I may retain any hope. My present uncertain state is more disagreeable than to be without hope for then I might know with some certainty how to regulate my future conduct. I am with the highest and Confidence in your Lordship's protection.

TO THE R^T H^{ON} GEORGE GRENVILLE.

By the Bishop of Osnabrigh Captⁿ Farquhar.

New York, January 2^d 1768.

SIR,

I flatter myself that the subject of this will induce you to excuse the trouble I now give you, which otherwise I should not have presumed to do. Last Spring a Pamphlet was printed in London in vindication of my conduct while the administration of the Government of this Province was in my hands, which had been aspersed by the printed Resolves of the Assembly and other papers published in this place, and which I was told had been distributed to Persons of distinction in London. The Vindication was delivered to several Members of Parliament, & I doubt not you received one of them. It was after this vindication had been delivered that the House of Commons addressed his Majesty 'that he would be graciously pleased to confer some marks of his royal favour on those Governors and Officers in the several Colonies who distinguished themselves by their zeal and fidelity in supporting the dignity of the Crown, the just Rights of Parliament and the Supreme authority of Great Britain over the Colonies during the late disturbances in North America.' When this address was known in this place, it was universally applied in my favour, and People's imaginations were full of the marks of the royal favour which they did not doubt I should receive.

In September last the Vindication was Reprinted in this Place and publicly sold. By what means the Printer obtained a copy I know not. It was done without my privity or that of any of my friends. It made a strong impression on Peoples Minds (as I am assured) in my favour. This excited anew the malice of the Faction in opposition to the Government, and particularly by the Chief Justice and Justice Levingstone. The

Supreme Court of Judicature met the 3d Tuesday in October last. Much pains was taken privately to influence the Grand Jury to present that pamphlet but without success for ten days successively. At last the day before the end of the term as the Grand Jury were going up to the Court, expecting to be discharged, Justice Livingston met them and asked them whether they intended to present the Pamphlet.—They answered in the Negative, on which he told them they would not be discharged till they did. After they came into Court the Chief Justice harrangued them on the subject, & he and Justice Livingston delivered them a copy of the Pamphlet. Next morning the Grand Jury presented it nearly in the Terms which the Chief Justice had expressed in his Charge, viz: "As a very vile scandalous false and libellous Reflection on his Majesty's Council, the Assembly, the Judges and the whole body of the Law in the Province." The Assembly of this Province is seting at this time, and I am well informed that they have appointed a Committee to form something against me, but they keep their proceedings so secret I cannot discover what the design; but this I may be assured of that the malice of some Men is such as to free them from all restraint of Truth when they imagine that bold assertions may affect their purposes for they have of late frequently succeeded by such.

The Grand Jury consisted of Merchants. Féw Merchants in this Place are not known to be Smugglers. Judges & Lawyers must have great influence over such Men, & their resisting the solicitations of the Judges & Lawyers for ten days is a strong proof that the Vindication had given them no bad Opinion of my Character. The facts alledged in the Vindication may be all proved by the Minutes of Council & Assembly transmitted to the Plantation Office, & Papers in the Secrettary of States office. Papers for some Months past have been daily published in the News Papers denying the Legislative authority of the Parliament of Great Britain over the Colonies—inciting the People not to submit to it, &



filled with suggestions to alienate the affections of the People from their mother Country. Not the least notice has been taken of these papers by any Court of Justice, or by the Council or Assembly, tho' such Papers still continue to be published.

The Assembly in the last Act for makeing provision for the Troops Quarter'd in this Province, carefully avoid acknowledging the authority of the Act of Parliament for that purpose, and make it their own Act. The Governor in his Speech on that subject is remarkably cautious. He is wise at my expence.

I am told in such manner that I believe it to be true that there has been more dutyable goods run since the Repeal of the Stamp Act than in ten years before. Goods which pay duty are cheaper than they were formerly when they paid no duty & were legally imported. No man dare inform, so that whole cargoes have been run without entry in the Custom House.

I have been now upwards of fifty years from England. All my former acquaintances and friends are dead: but I am known to Sir Jeffery Amherst & other officers of the American Army now in England. Col. Vaughan was with me all the time of the Riots in 1765. I have been above forty years of his Majesty's Council for this Province, and at last I have had the administration of Government for several years. I was very desirous of ending a long life with reputation, & for that purpose I had my Duty truly at heart, & was resolved to pursue it against a violent Opposition and at the risque of my fortune, not doubting of my being supported by his Majesty's Ministers. I have by the Riots and the Assembly's refusing to pay the Sallary due to me, suffer'd a loss to the value of £595:3: without any recompence, notwithstanding of the Resolves and Address of the House of Commons which I and every Man in this Province thought was in my favour; and I am left exposed to the malice and resentment of a powerfull Faction openly opposeing the authority of Great Britain in the Colonies. This must deter every

officer of the Government in the due performance of his Duty.

I have now lived Eighty years wanting one month. It is time for me to wish to retire, but I wish to do it with his Majesty's approbation of my sincere and hearty endeavours to perform my Duty in his service, & that my children may reap some benefit & security from it.

I have at several times laid my case before his Majesty's Secrettaries of State for American affairs, as I did sometime since to the Earl of Shelburne. I have not had the honour of hearing from any of them, & remain in the utmost suspence.

I chose to make this Address to you Sir, because I believe no man is better informed of affairs in the Colonies, or has formed a more just opinion of them, and from your character I assure myself you will make such use of it as may be no way to my prejudice, & that the Ministry may not take offence from this application. I am with the highest esteem and respect,
Sir,

TO THE R^T HON^{BLE} LORD MANSFIELD.

January 29th 1768.

MY LORD,

When I wrote my Letter of the 22d the time of Closing the Mail prevented my knowing sufficiently what had been don in the Assembly and I could [not] then know anything that might have been done in the supreme court in relation to the Pamphlet published in my vindication and therefore I hope your Lordship will excuse this additional trouble.

After the Joint Committee of Council & assembly had made their reports which was entered on the minutes of Assembly. The assembly at the Instance of Justice Livingston sent for several persons to be examined & in the last place examined my son in law & my

eldest son on the [14th] of this month since which the assembly have not taken this matter under consideration & the proceedings on that matter have stopt. The greatest numbers of the members are plain Country Farmers easily led away by artifice but at this time the general discourse in favour of the Pamphlet or vindication with their own knowledge of the truths it Contains has had a proper effect. Justice Livingstone in a day or two after his examining my son before the Assembly went into the Country & has not since that time been in the house nor assisted in the supreme Court at any time in this last term. It is generally believed disappointment and shagreen carried him away.

The factions have been so much disappointed in their expectations that the Assembly would have authorized a violent prosecution against me and People in general talked so freely of the measures which the faction pursue nothing less than to load & oppress me with the whole weight of the Council Assembly & the whole body of the law that their Designs in this place at this time I think are defeated. No mention was made of the Pamphlet or anything relating to it in the last Court but that they will do everything they can in another place, or at another time may be expected from these manifest proofs of malice, if the present judges remain in office.

The Assembly in their Entry of the report of the joint committee published in their printed journal the names of the Gentlemen of the Council who were of the joint Committee. This is not usually don. It gives an opportunity of knowing the Men who have been most active in this vile & infamous Design. John Watts, Roger Morris and William Smith, Jun^r & shews what they may have been capable of in other instances which have not come to my knowledge. While Gen^l Monckton kept the administration of Government in his own hands the present set of Judges were appointed. He confided in M^r. Watts & M^r. Smith. These two Gentlemen I have reason to believe have succeeded

with the present ministry to make them believe that I am universally disliked in this province and obnoxious to the people. The Ministry I have good reason to think are confirmed in this opinion by Mr. De Lancey one of their associates who went last fall to England. He has access to the Duke of Grafton by Col. Fitzroy who is married to M^r. De Lancey's Cousin. It would have been difficult for me to have convinced the ministry to the contrary of these bold assertions tho' no other proof can be given of the peoples dislike than by the riots & disorders which these men instigated near the close of my administration.

Now they themselves have *produced proofs for me to the contrary* by the measures they had taken with design to ruin my small fortune and my reputation (It is not unfrequent for wicked men to fall by their own Devices) that the people of the province retain a regard for me.

I make no doubt your Lordships compassion would be moved in the case of any private person under such malicious undeserved persecution, but my Lord when the case is of a virulent Faction against their Governor for performing his Duty in supporting the authority of the Parliament & the Dependence of the Colony of Great Brittain, a neglect of Protection must be of most dangerous example & deter every officer of the Crown from his duty. In truth this has in a great measure been allready the case. Even private men think it imprudent to speak their Sentiments whereas had they who think they owe obedience to the parliament of G^r Brittain been properly supported the opposition had been silenced before this time. Whatever the wisdom of the Ministry may suggest to be the true policy of Great Brittain with respect to her Colonies they never can think it good policy to deliver up their faithfull servants supposing they may have erred in Judgment to the violent resentment of a virulent Faction who stood in opposition to the authority of Parliament. I am confident of your Lordships sentiments in such

case & in that Confidence I cannot doubt of your Lordships proper regard.

My Lord I have nearly completed the 80th year of my life. I wish to close my life in ease & with reputation. I am now in the country by myself without the assistance I might have had in the City. I have been under a necessity of writing on this occasion too much for my strength of spirits. I must therefore beg your Lordships excuse for any inaccuracy or slips which may have escaped me.

I am in entire confidence of your Lordship's influence in favour of a faithfull servant of the Crown and of, My Lord, Your most obedient & most humble servant

TO THE R^T. HON^{BLE} GEORGE GRENVILLE, ESQ.

By the Harriott.

January 29th 1768.

SIR,

The Subject of the Letter which I had the honour of writing to you on the 2^d Instant, lays me under a necessity of again troubling you with a continuation of what has been done here since that—I am persuaded tho' the transactions particularly affect me yet the influence they must have upon matters of public concern will excuse me for renewing the trouble.

In my last I inform'd you Sir, of what had been done in the Supreme Court of Judicature in this Province relating to a Pamphlet Printed in London in vindication of my Conduct. I am now to inform you of what has been done in the General Assembly.

On the 23^d of December Justice Levingston, one of the Judges of the Supreme Court, brought the Pamphlet into the Assembly, and moved that a Committee be appointed to join a committee of the Council to enquire into it. He went with

A copy reprinted in
New-York.

the message to the Council for that purpose. The report of the joint Committee was made in the Assembly on the 30th. I enclose a Copy of it. No man of any probity, I presume, can draw the consequences which this joint committee have done from anything in that Pamphlet. It is printed in the Journal of the Assembly & was publish'd the day before the Supreme Court mett in the January Term, which may have been done with a bad intention. The Assembly at the instance of Justice Livingston examined several Persons among them were my Son in Law, and my eldest son on the 14th Inst. since which they have taken no farther steps upon it. The greatest number of the members of Assembly are plain Country Farmers easily led away by artifice ; but at this time the general discourse in favour of the Pamphlet or Vindication, with their own knowledge of the Truths it contains, seems to have had a proper effect. Justice Livingston went into the Country the second day after my son was examined, and has not since that time attended the assembly, or assisted in the Supreme Court at any time of the last Term. It is believed disappointment and shagreen carried him away. The Report of the joint Committee consists of bold assertions & calumny calculated to excite mischievous prejudices & to intimidate every Man that may appear in favour of the L^d. Gov^r. They can take no other Method with hope of success, & they are encouraged in it by the success it has formerly had even with a Ministry & a British Parliament. They have boldly asserted things well known in this place to be false, published them here, & made use of their being published here as an argument of their Truth—What must become of the morals of a People where such proceedings are attended not only with success but with Rewards.

The Faction have been so much disappointed *in their expectations* that the assembly would have authorized a violent prosecution against me ; and People in general have talked so freely of the measures which

they pursue (no less than to load me with the weight of the Council, the Assembly, and the whole body of the Law) that their designs in this place at this time, I think are defeat'd. No mention was made of the Pamphlet, or anything relating to it in the last Court: but that they will do everything they can, in another place, or at another time may be expected from these manifest proofs of malice, especially while the present Judges remain.

The Assembly in their Entry of the Report publish the names of the Gentlemen of the Council who were of the joint Committee. This is not usually done, but it gives an opportunity of knowing the Men who have been active in this vile and malicious design. John Watts, Roger Morris & William Smith, Jun, and shews what they may have been capable of in other instances which have not come to my knowledge.

While General Monckton kept the administration of Government in his own hands the present set of Judges were appointed. He confided in Mr Watts & Mr Smith. These two Gentlemen I have reason to believe have succeeded with the present Ministry to make them believe that I am universally disliked in this Province, and obnoxious to the People. The Ministry I have good reason to think are confirm'd in this Opinion by Mr De Lancey one of their associates who went last fall to England and has access to the Duke of Grafton by Col. Fitzroy, who married Mr De Lancey's cousin. It would have been difficult for me to have convinced the Ministry to the contrary; tho' the riots & disorders excited near the close of my administration by these Men & others is the only proof can be given of the People's dislike. Now they themselves have produced proofs for me to the contrary, by the measures they had plan'd with design to ruin my small fortune and my reputation. It is not unfrequent that wicked men fall by their own devices. Mr Smith Jun^r is a noted Lawyer in this Place, very lately appointed by the Council. He was educated in Connecticut a violent republican

Independent. He is at the head of that Sect in this Province, & has at all times appeared zealous in opposition to the established Church. It appears by some of the publications made in the newspapers that he was at the head of the tumultuous meetings of the People in 1765. He assisted, a volunteer, at the congress of the several Assemblies on the Continent, in October that year—the source of all the Disorders which have since ensued in America. He is rewarded with the highest honours & Trust, while the Governor who stood the brunt of popular opposition in defence of the Kings & Parliaments authority, is neglected and left without even a recompence for his real losses.

I make no doubt Sir, your compassion would be moved in the case of any private man under such malicious, undeserved persecution; but when it is the case of a virulent faction against the Governor, for his performing his duty in supporting the authority of Parliament & the Dependence of the Colony on Great Britain, a neglect of Protection, must be of most dangerous example, & deter every officer of the Crown from his duty; and in truth this has in a great measure been the case. Private Men think it imprudent to speak their Sentiments; whereas had they who think they owe obedience to the Parliament of Great Britain been properly supported, the opposition had been silenced before this time. Whatever the wisdom of the Ministry may suggest to be the true policy of G. B. with respect to her Colonies, yet they never can think it good policy to deliver up their faithfull Servants, however they may have erred in Judgment, to the violent resentment of a Faction in opposition to the Parliament and Great Britain.

You are so well informed of the Transactions in America that great confidence is placed in your assistance by, Sir, y^r.

TO THE R^T HON^{BLE} EARL OF HALIFAX.

January 29th 1768.

I had the honour, my lord, to be recommended to the office of L^t Governor of this Province by your Lordship & corresponded with your Lordship while the administration of Gove^t continued in my hands. I am thereby better known to you than to any of the present ministry as you left the Court at the same time that I was succeeded in the administration. I did not presume to trouble your Lordship with matters which tho peculiar to myself are so connected with the interest of Great Britain that I did not doubt of the Favour & protection of any Brittish ministry, but as I have been neglected I hope you will pardon my flying again to your Lordship's protection for which purpose I think it requisite to give you the trouble of a minute narrative.

Last spring a vindication of my Conduct in the administration of Gov^t was printed in London & delivered to his majesties ministers and several Members of parliament. I ordered one of them to be left with your Lordship. I intended by this publication to remove the prejudices and misinformations which I had reason to fear the ministry had received—I thought the informations it contained might be usefull to many and I hoped thereby to obtain that redress and protection which I conceived myself justly intitled to— A few copies of the pamphlet were distributed in this Place among my Children and some particular friends. A Printer without my privity or that of my friends reprinted it here. His copies were eagerly bought up, and I am assured had an effect very favourable to me on many people. But the Faction who govern in this province resolved to attack me with all their power and malice.

The October term of the Supreme Court commenced

soon after the pamphlet was published here. Chief Justice Horsmanden in the beginning of the term charged the Grand Jury in very strong terms with the pamphlet, but notwithstanding I am well informed the jury were much dealt with privately to bring them to present it, they sat ten days without doing it, & it is known they did not intend to meddle with it. On the day before the term ended Judge Levingstone accused the Grand Jury as they were going up to the Court expecting to be discharged. He asked them if they intended to present the pamphlet, they answered in the negative. He told them they would not be discharged till they did. They were again asked for the Presentment by the Chief Justice in Court and gave the same answer. He then harrangued them anew very warmly, and sent them out. Next day they presented it "as a very scandalous, vile false & libellous reflection upon his majesties Council &c which was nerely the words in which the Judge charged them.

In consequence of this presentment the pamphlet was more eagerly called for and gained credit—most of the facts were notorious to the people, but the Faction were exasperated. The General assembly met in October—Mr Justice Levingston, a member of that house brought the Pamphlet into the assembly & on his motion a Committee was appointed to join a Committee of Council to enquire into it—He likewise carried a Message to the Council for that purpose. John Watts, Roger Morris, and William Smith Jun^r were appointed by that Board. The report of this joint Committee was made in the assembly on the 30th of December. I enclose your Lordship a copy of it as it is printed in the Journal of Assembly. After this the Assembly proceeded at the instance of Judge Levingstone to examine several Persons among them my son in Law & eldest son who was the last examined on the 14th Inst. People without doors began to speak freely against such methods of proceedings—Mr Livingstone unexpectedly went into the Country two days after my

son was examined, & has not attended the assembly since, nor the Supreme Court which sat last week. I cannot learn that the assembly have taken any step relating to the pamphlet since he went away—neither was it mentioned in the Supreme Court. It is believed disappointment and shagreen carried M^r Livingston away. The Faction seems to have been checked in executing their measures by the different sentiments of some in the Assembly, & of people in general without doors. But, my Lord, I may depend upon the utmost that malice & resentment can effect both here and in England.

The reluctance with which the Grand Jury were brought to present the Pamphlet in October, tho influenced by the Judges & the whole body of the Law, is in itself a stronger prooffe of their favourable opinion of the Pamphlet than a presentment obtained in the manner that was, can be of the contrary

Such an influence must have great weight with all Juries, but in New York where the Grand Juries consists of merchants, and allmost all known to be illicit Traders, it required uncommon integrity and resolution to oppose men who have it always in their power to ruin them. I am well assured more dutyable Goods have been Run since the repeal of the Stamp Act, than had been done in ten years before. Nobody dare inform & the officers are deterred from doing their duty.

No man of any probity I think can draw the consequences from anything of the pamphlet which the joint committee in their report have done. The facts mentioned in the vindication can all of them be proved from the minutes of the Council & assembly lodged in the Plantation office. Some remarks were made, on the practice of the Courts of Justice in the argumentative part relating to appeals which do not admit of such proof but the proceedings of the Court at this time, I believe will afford a convenient prooffe to every disinterested Person.

Their Governor acting in obedience to an act of Par-

liament was most shamefully insulted—Dangerous riots have been frequently repeated in the streets insulting the Officers of Government—Burglaries committed in the face of the People. Papers at this time are continually published, denying the legislative authority of the Parliament of Great Britain over the Colonies—exhorting the People to refuse obedience and infusing into their minds the most unworthy sentiments of the Parliament. These are openly encouraged—Not the least enquiry into the Authors or Publishers of them, by any of the Courts of Justice or by the Council or Assembly. But a defence of their Governor in the performance of his duty is arraigned by the Supreme Court of Judicature, and by the Council and Assembly with a declared intention to ruin him. By bold assertions they endeavour to confound the truth, and excite mischievous prejudices. By the combined power of the Council and of assembly & the whole body of the Law they would intimidate every man who might appear in favour of their L^t Gov^r. They have no hope of success in any other method, and they are encouraged by the success such bold proceeding has formerly had even with the ministry & a British Parliament.

I have my Lord repeatedly inform'd the Secrettary of State of my difficulties, in my present situation of my losses & sufferings without the least recompence, and among others that the assembly refused to pay the salary due to me. A most unconstitutional act, design'd to gain an undue influence on succeeding Governors. I am the only person in this Government whose losses by the mobs in 1765, has not been amply reimbursed. The address of the house of Commons last year in favour of the Governors & officers who had performed their duty gave me great hopes & indeed fill'd the imaginations of the people in my favour, but hitherto I know not so much as that my letters have been received.

I have reason to think the Faction have succeeded in their endeavours to make the Ministry believe that

I am universally disliked in this Province & obnoxious to the people. I apprehend they may be confirmed in this opinion by M^r De Lancey who went last fall to England. He has access to the Duke of Grafton by Coll. Fitzroy who married M^r De Lanceys Cousin. It would have been difficult for me to convince the Ministry to the contrary, tho no other prooffe can be given of the Peoples dislike but the riots and disorders of the year 1765. Now they themselves have produced proofes that the people of the province retain a regard for me, by the measures they had taken to ruin my small fortune & my reputation.

It is not surprising my Lord that the Faction here should entertain the greatest Confidence & Boldness. They have succeeded in their measures against a British Parliament, and they are encouraged to hope for farther success. M^r. Smith Jun. a noted Lawyer in this place is lately appointed of the Council. He was educated in Connecticut, a violent republican Independent. He is at the head of that Sect in this Province, and has at all times appeared zealous in apposition to the established Church. He was active in the tumultuous meetings of the People in 1765. He was a Volunteer in the meetings of the Committee of the several Assembly's on the Continent, in October that year—the source of all the disorders which have since happened in America. He is rewarded with the highest honours of trust, while the Governor who stood the brunt of popular opposition in defence of the Kings & Parliaments authority is neglected, exposed to a wicked persecution and left without even a recompence for his real losses.

The favour that I have formerly had the honour to receive from your Lordship makes me hope for your Protection and assistance. Were it the cause of a Private man under such malicious undeserved persecution I Doubt not my Lord your Compassion would be moved but in the case of a Governor supporting the authority of Parliament & the dependence of the Col-

onies of Great Britain against a violent faction a neglect of protection must be of most dangerous example, & must deterr every officer of the Crown from his duty. In truth this has in a great measure been already the case [Had] Private men [who] think they owe obedience to the parliament of Great Britain been properly supported the opposition had been silenced before this time. Whatever the wisdom of the ministry may suggest to be the true policy of Great Britain, with respect to her Colonies yet they never can think it good policy to deliver up their faithful Servants (supposing they may have erred in judgment) to the dangerous resentment of a Faction who stand in opposition to the Parliament and Great Britian.

To —.

April 25th 1768.

MY LORD,

Tho it be probable that my Letters to my Lord Shelburn of the 23 of November & 21st of Jana^y & my letter of the last date to the Plantation Board are communicated to your Lordship in which I gave an account & complained of some extraordinary proceedings in this province I think it proper to renew that account to your Lordship in a distinct Narrative of that matter which I enclose. Had I attempted to compel any man in any one instance to act contrary to his own judgment or inclination there might have been some ground of complaint against me but when I have given no reason of complaint but by my refusal to comply with unreasonable desires & with which I could not comply without a breach of my duty the malice of the complaint must appear very evident, such as is inconsistent with every sentiment of moral rectitude.

The faction here place their only hopes of success in bold general assertions which have not the least foun-

dation in truth. These assertions I have reason to believe have been propagated in England by some persons who have access to the ministry & that have had an undue influence; for men of honour cannot easily believe that any man who bears the character of a Judge or has the honour of being of his Majesties Council could be guilty of such bold opposition without any foundation. I only intreat my lord that these persons be required to give the particular instances wherein I have failed in my duty or have given just cause of offence to the people of this Province the falsehood & tendency of their bold assertions and complaints will thereby become evident.

The faction in opposition to the authority of Parliament lay great stress on my having become obnoxious to the people of this Province & that I am generally disliked. It would not have been easy to have removed this calumny had not the proceedings of the supreme court and of the Joint Committee of Council and assembly in relation to a pamphlet intituled the Conduct, &c. given the People an opportunity of declaring in their publick conversations at the coffee house & other places the sense they had of my Conduct & their abhorrence of the methods taken to asperse my character for there is not one fact alledged in that Pamphlet which is not notoriously known to be true or can be proved from the Journals of the Council or of the Assembly. This put a stop to the proceedings of the Faction so that I cannot now say how far they intend to carry their malice while they had hopes of procuring and influencing a Jury to their purpose.

Some other publick instances since that time have given the strongest proofs of the sentiments the people entertain of this Faction after the assembly was dissolved the contentions were never more violent than on the new election. Judge Livingston the most violent man both in the Supreme Court and in the Assembly in the malicious prosecution of the Pamphlet wrote in my vindication had for several years past been elected

a member of assembly for the county where his Family Interest lieth—some one of the family has been elected continually for above 40 years—At the last election it appeared he had so far lost the esteem of the Freeholders in that Country that he gave up before half of the Freeholders then present had given in their votes tho he had everything in his favour which power could give him. The members for the City of New York generally have the direction of the House of Assembly.—Of the four members for the City only one of the old is returned. There are 27 members in the Assembly—13 of that number are now new.

It is well known that the last assembly were influenced by the Lawyers. One of the most popular among them attempted to be elected for the City of New York by the interest & influence of the body of the Law and of the Presbyterians & Independants who are very numerous but failed. The general cry of the people both in town & country was *no Lawyer in the Assembly*. From these things it is manifest with what little truth it was confidently asserted that the last assembly had acted according to the universal sentiments of their Constituents.

Some proceedings in the last session of assembly relating to the Province Treasury deserve your Lordships attention of which it would be a failure in my duty not to inform you least you should not otherwise be apprised of them. I presume the Governor has transmitted a copy of their Journal to the Plantation board. By the standing Instructions the Governor is not to give his assent to any money bill in which the money is not granted to the king & it has allways been done so in the proceedings the Kings name is not mentioned or the least notice taken of any Interest the King has in the public money. The Speaker has given a Commission to the new Treasurer in his own name of which this is the first instance so far as I can recollect.

The Treasurer gives bond to the Speaker for the due execution of his office whereas before this time the se-

curity was by recompence to the King. To render the bond of the Speaker effectual a clause was added to the bill by which the Governor & other officers receive their sallaries—to this cause he must have lost his salary.

The Kings Attorney General is an officer of the greatest Trust in relation to the rights & prerogatives of the crown—In this bill M^r Kemp the present attorney General is to receive of the Treasurer £150 without warrants notwithstanding by the Kings standing Instructions all moneys are to be issued from the Treasury by warrants from the Governor with the advice and consent of the Council. These things want no comment. They plainly shew the reason why the assembly so strongly oppose any act of Parliament by which the officers of the Crown may receive their salaries independently of them.

My Lord I have repeatedly complained to his majesties ministry of the Assembly refusing to pay my losses by the mob the 1st of November 1765 tho every other person was recompensed & at the same time refused to pay in the salary due to me amounting in the whole to

They dare not avow the reason of this proceeding. It is evidently to deter every officer of the Crown from opposing their pleasure and from giving the necessary information to his Majesties ministers. I humbly presume my Lord that no officer of the Crown deserves his majesty's favour & protection more than I do for the faithfull performance of his duty notwithstanding the violent opposition and difficulties laid on me by a violent Faction to make me swerve from my duty. I am now confident that since the affairs of the Colonies are put under your Lordships directions my case will be properly represented to his Majesty as both justice and good policy require. I cannot forbear to observe that while I have been neglected William Smith, Jun. has received the honour of an appointment to the Council of this Province—This Gentleman is known to be intimately connected with

the Faction in opposition to the Kings Government and the authority of the parliament over the Colonies & principal adviser in their proceedings soon after his taking his seat at the Council board he appears in the joint Committee of the Council and Assembly mentioned in the whose design was to ruin my character and private fortune were it in their power. I am well assured that he was a principal adviser in those virulent & malicious proceedings.

Before I conclude I must beg leave to observe to your Lordship that the present Judges of the Supreme Court are connected with the Faction in this Province as appears by numerous publick Instances. The Kings authority and obedience to the Laws can only be enforced & secured by the Courts of Justice and by disinterested Judges men of integrity and ability. Our present Judges have lost the esteem of the people both as to their Integrity and ability. I believe it would be very difficult to find men in this province disinterested and of sufficient ability to be Judges. I am therefore of opinion that the present disorders cannot be effectually remedied without Judges of Integrity and ability from England without this all other means may prove ineffectual or may be attended with difficulties that by appointment of proper Judges may be avoided. I know it may be asserted that the removing the Judges will create general discontent and Jealousy in the people; but where the people have no esteem of their present Judges any clamour or uneasiness which may by artifice be raised will soon subside by a prudent & ready Conduct of the Judges & the people will soon become sensible of their happiness under a proper administration of Justice.

I had the honour of your Lordship's Commands while you presided at the Plantation board & on the whole of my administration I am confident the rectitude of my Intentions for his majesties service in the performance of my duty will clearly appear & therefore I can make no doubt of your Lordships regard. I have the



honour to be with the greatest respect and submission.

NARRATIVE, ETC.

In the Spring 1768, a Pamphlet intituled the Conduct of Cadwallader Colden, Esq, L^t. Governor of New York &c was printed in London in vindication of his Conduct in the administration of the Government, which had been aspersed by a violent faction in this place. The printed vindication was delivered to his majesties Ministers and to several members—directions were given that one of them should be left with your Lordship.

No man could be more sincerely influenced by a sense of duty than the L^t Gov^r was in those parts of his administration which have been maliciously aspersed. He might have fallen in with a faction who have it much in their power to gratify him but he has that pleasure which arises from having been able to withstand every temptation of private Interests. A man acting on such principles must be jealous of his reputation, especially on the close of life. It was thought likewise that informations in the vindication might be of use to his majesties Ministers & the Members of Parliament—That the L^t Gov^r thereby would obtain the protection of the Ministry and a recompence for his great sufferings & Loss in his private fortune; but in this he has been entirely disappointed.

The Pamphlet was reprinted here without the privity of the L^t Gov^r and contrary to his design. However it has had a good effect on the generality of people, and has removed many prejudices that had been artfully propagated against the L^t Gov^r, but it alarmed and irritated the faction whose Principles & Designs were exposed, and it appears that they resolved to ruin him and support their own authority by acts of meer power.

In the last October term of the Supreme Court of Judicature great pains was taken privately to bring the Grand Jury to present the Pamphlet printed in vindi-

cation of the L^d. Gov^r. Having failed of success in that way Chief Justice Horsmanden charged them with the pamphlet in very strong terms from the Bench. After ten days sitting the Grand Jury still took notice of it, till they were threatened by Judge Livingston without doors that they should not be discharged till they did, and were repeatedly charged in the warmest manner by the Chief Justice on the Bench. Thus were they brought a few hours before the Court broke up to present the Pamphlet *as a very vile infamous false and libellous reflection on his Majesties Council Assembly Courts of Justice and the whole body of the law in this Province.*

The Grand Jury in the City of New York consists of merchants—few of them in this country are not known to be concerned in illicit trade. It is openly affirmed that more dutiable goods have been run since the repeal of the stamp act than had been done in ten years before. It is too evident what influence the Judges & the whole body of the Law must have on such Jury men. The influence of the lawyers in this place is very great much greater than can happen in England. This presentment of the grand Jury is all that has hitherto been done in the Supreme Court respecting that pamphlet. Probably the difficulty with which the Jury were prevailed on to bring in the presentment might blast the hopes the faction had entertained of influencing a Jury to serve their purposes. In December last the scene was shifted before another tribunal. On the 23rd of that month Judge Livingston brought a copy of the Pamphlet printed in New York into the General Assembly which met in November and on his motion a Committee was appointed to join a Committee of the Council to inquire into the Pamphlet &c. Judge Livingston carried a Message to the Council for this purpose. The report of the joint Committee was made on the 30th of which a copy is enclosed. Your Lordship will readily observe that it consists of general assertions and Calumny, without

pointing out any one fact as false, that it is calculated to excite mischievous prejudices and to intimidate every person that might appear in favour of the Lieut. Governour. After the report of the Joint Committee was received the Assembly proceeded to examine several Persons even the L^t Governours son & son in Law. This method is peculiar to the Popish opposition and shews a design to proceed in the most violent and arbitrary manner. The general discourse of the People at this time ran much in favour of the pamphlet and against the methods taken to raise prejudices against the L^t Governor which together with a connection of the Truth it contains produced a change in the Assembly. Judge Livingston was opposed in the measures he supported and was very warm after the L^t Governors son had been examined he abruptly left the House and went into the country. It is generally believed that disappointment and shagreen carried him away. Nothing more was done in the Assembly relating to this matter altho they continued sitting above a month longer till before noon of the day on which they knew they were to be dissolved, at which time no more attend than the number necessary to make a house. The faction at this time prevailed on this small to enter resolves which are published in the Printed Journal of their proceedings and are a repetition of the report of the joint Committee leaving out the charge of falsehood.

To —.

June 16th 1768.

MY LORD,

In my letter of the 25 of April last I informed your Lordship of some occurrences which I thought may be of use to you in forming a Judgment of the present state of the provinces.

In my Letters to his Majesties Ministers I have re-

peatedly given my opinion that his majesty's authority & the dependance of the Colonies can not be secured nor the property of the subjects without disinterested Judges of ability and Integrity. That our present Judges are not such is now universally the opinion of the people, and it is likewise the opinion of the most intelligent that proper Judges cannot be obtained in this province. It was evident in the late elections as I informed your Lordship in my former Letter that the Lawyers in a great measure lost the influence they had on the people. This seems therefore a proper time to send over some Gentleman of sufficient abilities to be chief Justice with a salary sufficient to make him independent of any faction in the assembly. Were this done I am confident the opposition to the authority of Parliament over the Colonies would daily decline. The granting such a salary in its consequences will be a saving to the Crown, for it will facilitate every measure which may be thought proper preserving his Majesties authority. One or two puisne Judges may be appointed from among the inhabitants of sufficient knowledge with the assistance of the Chief Justice to execute their office.

Sometime in Sept^r last year the Faction received some intelligence from England that the ministry intended to get the administration of Gov^t again into my hands & at the same time that a Gentleman from this place who had access to the Duke of Grafton assured his grace that if this was done it would set the Colony in a flame & occasion the greatest disorders. About the time that this information was received the Pamphlet appeared in New York which had been printed in London in vindication of my Conduct during my administration. This Pamphlet discovered several things which had been carefully concealed from the People or had been represented in a very different light. The Faction resolved therefore to discredit it & to confirm the Information which their friend had given the D. of Grafton by a publick prosecution & censure of that pamph-

let by the Courts of Justice the Assembly & Council of the Province—a force which in their imagination no single person could withstand. But my Lord the force of facts the truth of which appeared in the publick Register or were notoriously known proved too strong for them. The prosecution convinced the people of the malice of the prosecutors after the Pamphlet had freed them from prejudices which had been entertained against me by artfull misrepresentation of my Conduct. A quite contrary effect was produced to what the Leaders of the faction designed and they are now much humbled by the loss of their popularity.

I now flatter myself that his Majestys ministers will no longer apprehend any inconveniency in showing some regard to a servant of the Crown who has performed his duty amidst innumerable difficulties & under insults destructive of all Gov^t and without any remarkable indiscretion on his part to give use to such insults. In justice I think I may expect recompence for my loss & sufferings & I hope it will be thought of publick use that I receive some reward whereby the Kings [servants] may hereafter be encouraged in their duty. I am now my lord so far advanced in years that my only wish is to close my life in ease with reputation, and that my past services may be of benefit to my Children. I may receive a proper reward from his Majestys Quit rents in this Province without injury to any appointments which are allready established on that fund. I have been longer conversant in the public affairs of this Government than any person now living in it, & I may be able to give you information in some things which no other person can or which few may be willing to do. Your Lordship knows more of me than any other of his Majestys present ministry. I confide in your favour. I humbly entreat you will free me from my present disagreeable state of uncertainty by letting me know your Lordships sentiments. I am

TO THE R. H. GEORGE GRENVILLE.

Oct^r. 22^d, 1768.

I cannot express the pleasure I received by the honour you have done me in yours of the 28th of July.

You may assure yourself, Sir, there is not one single fact in the vindication I published of my conduct but what may be proved by the Proceedings of the Council & Assembly Copies of which are continually sent to the Plantation Board or were notoriously known at the time. No man in this place has at any time attempted to expose any one part of it as false which no doubt some would if they could. I am well assured that no one fact was pointed out to the Grand Jury who found it a false libel nor was any kind of proof attempted to be given other than of the person who printed it in New York. You may Judge Sir by what Principles our Judges are directed. If this Vindication had given any just reason of complaint as it related to my administration of the Government it ought to have been made to the King where a proper redress could be obtained, but they chose to make themselves both accusers & Judges.

I must own Sir that when I wrote to you in Jan^y last I was alarmed by the attempt to join the Council & Assembly to the Courts of Justice against me not knowing to what lengths their malice might lead them, but I was soon afterwards freed from that uneasiness by the general abhorrence publicly expressed at the method taken to calumniate an innocent person. Since which time all discourse on the subject I am told is avoided by those people who were the Authors & Promoters of this iniquitous proceeding.

It is very improper to give the characters of men in public authority when it is not accompanied with proper proofs. I wish you knew the general Sentiments of the people in respect to the Integrity & ability of our

Judges—perhaps you may learn it from some who cannot be suspected of Partiality.

There is one thing of which I think it now proper to inform you & which I have not hitherto don. Major James of the Artillery Reg^t carried into the Fort without my knowledge while I was in the Country several howitzers with their shells & other Artillery ammunition and stores. This gave the first uneasiness to the people, and some imprudent discourse he used at that time raised their resentment more against him than any other man in the province so far that he did not think it safe for him to continue in it. He desired leave of the General to go to England & carried the General's & my dispatches to the Ministry on that occasion. It may be asked how came it that the assembly of this Province should recompense Major James to the utmost of his demands when at the same time they refused to make any recompense to me, or to pay that part of the Sallary which was due to me. You may Judge Sir by what follows: Major James after his return to this place told me in private conversation between ourselves that he had 400 Guineas given him in England That he had a paper of directions given him how to answer on his examination before the House of Commons & I suppose the Agent of the Assembly had directions to advise the Assembly—These things I cannot prove otherwise than as I tell you but you Sir may be able to Judge of the truth of them.

When I applied to the Assembly in consequence of the address which you mention of the H. of C. to the King, for a reimbursement of the losses I had sustained, and for payment of the salary due to me, they at first seemed to avoid it, by passing over my Application without notice which induced me to write to the Speaker & then their answer was that I had brought it upon myself. To this day I remain without one farthing of reimbursement or of the Sallary due to me.

In my Letters to the Secrettary of State I gave my opinion that the Faction in opposition to the authority

of Parliament placed their hopes in intimidating the ministry by bold assertions without the least regard to truth & by intimidating every officer of the Crown from their Duty, but that if the Parliament resolved to support the authority of Great Britain over her colonies the opposition would soon subside. Perhaps I gave my opinion too freely & thereby gave offence. Now it will appear whether I judged rightly when the Ministry are resolved to support that authority. Indeed it never entered my Imagination that the Stamp Act would be repealed & the Success since that repeal which has attended the Measures taken in the Colonies & the numerous papers continually published in vindication of those measures in opposition to the authority of Parliament may make it more difficult to convince men of their errors than it would have been by enforcing the Stamp Act.

I informed the Secretary of State likewise of the matters which were the subject of my letters to you, & after I knew that my Lord Hillsborough was appointed Secretary for the Colonies I had more confidence in him having corresponded with him while he presided at the Plantation Board. I particularly informed him of several transactions in this Province which may be needless to repeat to you & of some acts to which the Governor had given his assent in direct breach of his Instructions, and which tended greatly to increase the power of the Assembly in prejudice to the Constitutional Prerogative of the Crown. I have been told that my Lord Hillsborough mentioned me in private discourse very favourably but as to anything farther I remain entirely ignorant.

The Sentiments with regard to the Colonies which you have done me the honour to communicate to me, I am persuaded will be adopted by every honest man, & give me confidence of your endeavours in whatever situation you be that Justice be done me. I think good Policy likewise requires it that his Majesty's faithful servants may not hereafter be deterred from their

duty. I wrote to my Lord Hillsborough that my only wish with respect to myself is that I may close my days in ease with reputation & that my Children may not suffer by my performing my Duty in a long series of years of which I can give many instances but that they may receive some benefits thereby.

May I beg the honour of a line when you can inform me of what I may expect. I am with the highest respect & sincerest gratitude, Sir, your most obedient & faithfull servant

TO SIR HENRY MOORE.

Oct^r 24th 1768.

SIR,

Yesterday I received from my Son, the Extract of Lord Hillsborough's Letter to Your Excellency of the 9th of July. Inclosed is an account of the Losses I suffered refer'd to by his Lordship. Another copy of this account was formerly given in to the Assembly by my son attested by him. The salary is due to me from the 1st of September 1765 to the 13th of November following. I hope Sir you will recommend this matter to the Assembly in their next session, and as you are convinced of the equity of my claim for the arrears of Salary, and for a Compensation for the Losses I sustained, I make no doubt your Excellency will do it in such a manner as may give the greatest weight to his Majesty's gracious attention to my Case. I beg the favour you will let me know if anything further be requisite on my part. I am with great Respect, &c.

EXTRACT OF A LETTER FROM THE EARL OF HILLSBOROUGH TO SIR HENRY MOORE, DATED JULY 9th 1768.

Your representation of Mr Coldens Case evinces the equity of his claim upon the Colony for the arrears of

his Salary, and for a compensation for the Losses he sustained in the disturbances at New York, and therefore it is the King's pleasure that you do persevere in your Recommendation of this matter to the Assembly. I beg the favour of you to acquaint M^r Colden with the directions you have received upon this subject that he may be assured that the sufferings & complaints of a meritorious old servant of the Crown are graciously attended to by his Majesty and have not been neglected by me.

Note. This Extract was received by the L^t Gov^r Sunday morning, Oct^r 23^d.

TO THE R. H. GEORGE GRENVILLE.

New York, January 6. 1769.

SIR,

On the 22^d of October, I acknowledged the honour you had done me by your Letter of the 28. of July, and sent my Letter to the Post office—the Mail was to be closed next day. I have lived in the Country about 15 miles from Town since Sir Henry Moore arrived. The day after I had sent my letter to the Post office, I received an extract of Lord Hillsborough's Letter to Sir Henry, of the 9th of July which he must have received some four or five weeks before that time. The extract is in the words following, viz :—

“—Your Representations of M^r Colden's case evinces the equity of his claim upon the Colony for the arrears of his Salary, and for a compensation for the Losses he sustained in the disturbances at New York. And therefore it is the King's pleasure that you do persevere in your recommendation of this matter to the assembly. I beg the favour of you to acquaint M^r Colden with the direction you have received upon this subject, that he may be assured that the sufferings and complaints of a meritorious old servant of the Crown

are graciously attended to by his Majesty and have not been neglected by me."

I did not imagine that Sir Henry had made any representation of my Case; nor do I conceive what he could say to give rise to the direction that he should *persevere in his recommendation of that matter to the Assembly*. When in pursuance of the address of the House of Commons to the King, he recommended to the Assembly in the year 1766, the recompensing the losses of those who had suffered by the riots, I sent him the account of my losses and desired him to send it in to the Assembly—he refused to do it and did not then, nor has he at any time since till last week that I know of, used any endeavours to influence the Assembly to pay my Demands. I have always thought that he was influenced to my prejudice, by those in whom he has placed his chief Confidence.

A Day or two after I received the extract of Lord Hillsborough's Letter I sent the Governor an account of my Losses and of the arrears of Salary due to me, which he sent to the Assembly the 24th of December—the Assembly have agreed to pay the arrears of Salary, as I demanded, but made no Resolution as to recompensing my Losses. The reason is said to be that I had put the Province to a considerable expence to unspike the cannon on the Batteries. These cannon were not spiked till after all the Artillery belonging to the Army which was not brought into the Fort was spiked. These could not be spiked by my orders. The Cannon on the Batteries would have been unspiked when it should be thought proper. For the same manner the army artillery was without charge to the Province. But the assembly thought proper to take the direction of the Cannon Batteries, and ordered it to be done immediately at their expence; tho' it is evident there was no necessity at that time for such haste. With no propriety can this expence be charged to me—it is done to make the officers of the Crown sensible of their dependence on the Assembly. It is remarka-

ble that Sir Henry in his message to the Assembly took not the least notice of any Directions he had received from the Secretary of State.

This is Sir, the first sessions of a new assembly in which one half of the members are new. There was a struggle between two parties for the lead, without being able to determine which of them had the majority. Both of them had nothing so much in view as to gain or preserve popularity, and as the Measures which they pursued for that purpose they apprehended would oblige the Governor to dissolve them they had their future reelection in view throughout.

The political sentiments of the Colonies have, I think, undergone no change of late. The spirit of opposition to the legislative authority of the Parliament of Great Britain is kept up by every possible means and by the strongest Confidence that they will again oblige the Parliament to repeal its acts. I have several times, Sir, presumed to submit my opinion to his Majesties ministers that the constitutional security of the Government and of the dependence of the Colonies on the Mother Country was in the Courts of Justice. It is not easy to imagine how miserably defective this security is in this province. The Judges are men of no capacity and of no Esteem among the people, and are even held in contempt by the bar. The Chicanery of the Pleaders prevails without restraint. In a country where licentiousness of every kind has been so much encouraged as in this of late it is impossible under the present State of the Courts of Justice that either the authority of the Crown or the property of the subject can be secure. For this reason, Sir, I humbly conceive that, the appointment of Judges Men of ability and integrity with proper Salaries is the first thing to be thought on for securing the Dependence of the Colonies on Great Britain—for securing the Government and to make the people happy. This alone may go far for these purposes, and without it other means may prove ineffectual or dangerous. I

am of opinion that men of sufficient ability integrity and disinterestedness are not to be found among us.

I have the satisfaction of mind, that while the administration of Government was in my hands, I acted entirely from principle of duty, in obedience to the Kings Instructions, and for the welfare of the People under my care; and I defy any Man to give an instance in my Conduct to the Contrary. People in general are convinced of my fidelity, and I had the pleasure to know after the Address of the House of Commons to the King in favor of the Officers who had distinguished themselves in supporting the authority of the Parliament in America was known, that no doubt was entertained of my being distinguished by his Majesty's favour but if my recompence be left to the Assembly, I shall not even have justice done me, and the Officers of the Crown must be greatly discouraged in the performance of their Duty under such popular Opposition.

The Governor has dissolved the Assembly, & issued Writs for a new Election. We shall have a warm election for the City the contending parties being nearly equal, & animated against each other.

On all occasions I shall endeavour to deserve the continuance of your regard and the honour of being, Sir,

TO THE HON^{BLE} SIR WILLIAM JOHNSON, BART.

Spring Hill, January 11th 1769.

DEAR SIR,

It is a very long time since I had the pleasure of receiving a line from you or of writing to you. You may have reason to think that I am principally to blame since I had the last letter from you. I delayed writing in hopes of having some subject to write on & tho' I expected such I was disappointed. Now I cannot suffer the new year to begin without renewing that

correspondence which has given me so much pleasure. May this year be no less honorable to you by your successful services to the crown & your Country than the last was & which will remain forever on our records. The measure lately taken of putting the Regulation of the Indian Trade into the hands of the Assemblies of the several Colonies will help to set in a clearer light & shew the value of your abilities and & past services.

The Assembly have left to the members of Albany to concert proper regulations of the Indian Trade—this (in my opinion) is to leave it to the Traders to regulate themselves to guard against the frauds & abuses daily committed by the Traders of which the Indians have perpetually complained & which have been the principal source of all the contentions between us and the Indians.

The Assembly agreed to pay the expence of running & ascertaining the Boundary as agreed to by you and the Indians. This ought to be done with some solemnity—no doubt considerable numbers of the Indians will attend & some respectable number of our people ought likewise to be present to perpetuate the boundary by monuments & accurate descriptions. Both Indians & Christians will expect to be supported at the publick expence. The Assembly judge that this expence ought not to exceed one hundred pounds—at least that they will not pay more. Time will make the necessity of your office appear.

In the last session the members had nothing but their popularity in view. You know the two parties who are struggling for the lead. One was resolved to make every popular motion which the others dared not oppose without danger of the loss of their popularity tho' it is thought that they concurred much against their inclination. The Governor is thought to favor one side which is confirmed by his speech at the dissolution. The whole force of both sides will be exerted in the election for the city of New York & that

party will prevail in the next assembly which prevails in that Election. This will be the case if we be left to ourselves but if Great Brittain interpose as from the Kings speech may be expected things may take a different turn from what is expected in the views of the several parties.

The Governor received orders from my Lord Hillsborough in the King's name to apply to the Assembly for the payment of the arrears of my Sallary and compensation for the losses I suffered in 1765. The assembly have paid the arrears of sallary to the full but came to no resolution as to the losses. They objected I am told to my saying in the account that it was done by the mob. I should have thought the objection would have been stronger had I given room to suspect that Gentlemen & persons of distinction had a hand in it.

I am sorry to hear that you had sometimes suffered in your health last year. It will give me great pleasure to hear that you have recovered it. I enjoy as much health & spirit as I can expect at my age tho' I feel the infirmities of old age daily increasing. I am with great sincerity and respect, Sir

TO THE R^t HON^{BLE} EARL OF HILLSBOROUGH.

Duplicate to the Board of Trade, by the October Mail — Bolderson.

No. 1.

New York, Sept^r 13th 1769.

MY LORD,

On Monday last the 11th Instant Sir Henry Moore dyed, after three, afternoon. I was then at my House in the Country. Next day I came to Town. Sir Henry's funeral being that Day, I delayed assuming the administration of Government to this Day; when I took in Council the usual Oaths as L^t. Governor and Commander in Chief of this Province. I am not as yet sufficiently inform'd of the state of public affairs to

write any thing in particular, but your Lordship may be assured that it shall be my constant endeavour to keep the Province in Peace & Tranquility. Since I came to Town, I have seen many of the principal Inhabitants, who give me hopes that I shall succeed in my endeavours, and I have good ground to think that my administration will be made easy to me.

The appointment of a Register in the Prerogative Office became necessary immediately after the Governor's Death. I have appointed M^r. Banyar to execute that office, who executed the same while I had the administration formerly, & for many years before that time, of whose ability and fidelity I am well assured, & whose Conduct has been free from all exception.

As I flatter myself it has appeared to his Majesty's Ministers that I had my duty allwise in view, while the administration was formerly in my Hands, I hope not to fail in it now, and that while I perform my duty, I shall have the honour of your Lordships patronage. I have the honour to be with the highest Respect, My Lord, &c. &c.

TO ANDREW ELLIOTT, ESQ. COLLECTOR OF HIS MAJESTY'S CUSTOMS AT THE PORT OF NEW YORK, AND THE COMPTROLLER, ETC.

Spring Hill, Sept^r. 27th 1769.

GENTLEMEN,

M^r Lewis Pintard has just delivered to me your Letter of this Day, and with it a Petition from the Captⁿ of the French ship, which I shall lay before his Majesty's Council next Friday, and after I have their advice I shall give such further directions as may be thought necessary. In the meantime I think the Passengers who were on board the French ship, may be allowed to bring their Trunks of wearing apparell on shore, after they have been examined by one of your Officers, &

found to contain nothing else. And the Captain may be permitted to take fresh provisions in for the present use of the ship. If you discover nothing Gentlemen to make this indulgence improper you will please to permit the French Captain to act accordingly. I am

TO JOHN CORNER, ESQ, CAPTAIN OF HIS MAJESTY'S
SHIP "HUSSAR."

Spring Hill, Sept^r 27th 1769.

SIR,

Last night I received your favor of yesterday's date, and just now the Captⁿ of the French ship you mention is with me, and has delivered me a Letter from the Custom House Officers on the subject of that Ship. I am to meet the Gentlemen of his Majesty's Council next Friday, at the Ferry House on Long Island Side. I will then lay your Letter before them & take their advice upon what may be proper to be done on this occasion. I have desired the Gentlemen of the Custom House in the meantime to allow the Captain of the French Ship to take in fresh provisions for the use of the ship, and to permit the Passengers to bring on shore their Trunks of wearing apparell after they have been examined by one of their officers. I am

TO THE R^t HON^{ble} EARL OF HILLSBOROUGH, &c.

Duplicate by the Lord Hyde.

No. 2.

New York, Oct^r 4th, 1769.

MY LORD,

Your Lordships Letter No. 33 directed to Sir Henry Moore, came to my hands after his Death. By my Letter of the 13th of last Month I informed your Lordship

of his Death and of my haveing taken the administration of Government. Before I wrote that Letter I had met more than once with the Gentlemen of the Council. I had conversed with the Speaker and several of the Members of the Assembly. I had assurances from them of their disposition to make my administration easy to me. Nothing has occurred since to make me doubt of this being conformable to the general inclination of the People: tho' at the same time I know that some are of a quite different disposition, but I hope their power will not be equal to their inclination to raise difficulties in this Government.

I am inform'd my Lord, by those who know the inclination of the Assembly well, that they have the passing the Bill for issuing a paper Currency, much at heart—that the passing of that Bill will put them in good humour; and that unless this be done it will be difficult to make them continue the Provision for the Soldiers quartered in this Province, after the Massachusetts Bay have set them an example of absolutely refusing to do it, which has been followed by the Assembly of South Carolina.

Whatever other effect the granting a Paper Currency may have, it will certainly increase the consumption of British manufactures in this Province. I conceive no inconvenience my Lord, in allowing the payments of the Money borrowed, to be made of a tenth part every year. The reason of this is that some of the Borrowers on the former Emission, suffer'd by their imprudence and had their Estates sold in Execution greatly under value.

The Clerk of the Council tells me that, the Acts passed last sessions of Assembly were transmitted by the June Packett from hence, and Mr. Levingstone, Sir Henry's Secrettary, says that the Bill for a Paper Currency was transmitted to your Lordship by the last Packett, in the preceeding Month.

My Lord, You did me the honour to signify to Sir Henry Moore that his Majesty graciously attended to

the Losses & Sufferings of a meritorious old servant of the Crown, and recommended his insisting on a recompense from the assembly to me, which I have not obtained. How far Sir Henry interested himself in the recommendation, I know not, but now his Majesty may recompence me, by graciously suffering me to continue in the administration with the Salary and Perquisites. If my Conduct demonstrates an entire regard to my Duty; and I be able to preserve the Province in tranquility, as it shall be my steady endeavour to do, I hope I may beg your Lordships favourable representation of my Case to his Majesty for that purpose. I am with the greatest respect and submission, My Lord, Your most obedient & faithful Serv^t.

TO WHITEHEAD HICKS, ESQ, MAYOR OF THE CITY OF
NEW YORK.

Spring Hill, Oct^r 3^d 1769.

SIR,

I just now received yours of yesterday informing me of the Riot which was in Town last Saturday. Such insults on the Laws and good order of Government, give me great concern, especially at this time when they make impressions greatly prejudicial to the interests of the Place. I entirely approve of the Magistrates making Inquiry to discover the promoters of this Outrage; and hope it will appear, that it did not arise from the general disposition of the People. This will best be done by the Magistrates continuing their Inquiry with spirit, which may at least have some effect in preventing such disturbances for the future; and I earnestly recommend it to them to do every thing in their power for this purpose, and to preserve the Peace & good Order of the City. I am

TO THE R^T HON^{BLE} GEORGE GRENVILLE.

New York, Oct^r 5th 1769.

SIR,

As you did me the honour of your attention to the Complaints I made of my Losses & Sufferings in the Disorders which happened in this Place, occasioned by my obedience to the Law & adherence to my Duty, while the Administration of Government was in my hands, and for which I have received no recompence, I think it incumbent on me to inform you that by the Death of Sir Henry Moore, the administration is again come into my hands, by his Majesty's Commission to me of L^t Governor. His Majesty may now make me recompence by suffering the administration to continue in my hands with the Salary and Perquisites, if I be able to preserve the Province in tranquility, as I have good ground to hope I shall, and I otherwise perform my Duty.. From my Age it cannot be of long continuance. Tho' you be not in the administration, your influence may be of great service to me, and I beg the honour of your patronage. I am with the highest Respect.

TO THE R^T HON^{BLE} EARL OF HILLSBOROUGH.

Duplicate by M^r W^m Bayard.

No. 3.

New York 7th Oct^r 1769.

MY LORD,

I have the honour of forwarding to your Lord^p a Copy of the Determination of four of the Commissioners for settling the Boundary Line between this Province & New Jersey and of the Opinion of Captⁿ Holland Surveyor General of Quebec, and M^r Morris Surveyor General of Nova Scotia who dissented. I have had no time my Lord to consider this matter myself,

but it is represented to me by the agents of New York that by this Decision a considerable Territory claimed by them for the Crown, lying to the southward of the ancient Line of Jurisdiction, establish'd by agreement between the Contending Governments in 1686 is ceded to the Proprietors of N. Jersey. That the ancient Jurisdiction of this Province is thereby greatly abridged, and a great number of Families who on the faith of that Agreement settled in early Time under N. York to the northward of the old Line of Jurisdiction, will be involved in ruin. For these reasons, & conceiving the Judgment of the Majority of the Commissioners to be ill grounded, they have thought it their Duty in faithfulness to his Majesty & tenderness to the People who will be such great sufferers to interpose an appeal from this Determination to the King in his Privy Council according to the directions of the royal Commission. The Principles sett up by New York, both for the Crown & Private Property are explain'd in the Argument of which I inclose your Lordship a Copy. As by this adjudication the Right of the Crown may be so much affected, I think it necessary to give your Lordship this information and shall from time to time lay before you what may farther occur worthy of your Lordship's attention. I have the honour to be with great submission

TO THE R^T HON^{BLE} EARL OF HILLSBOROUGH.

No. 4.

New York Oct^r 16th 1769.

MY LORD,

Mr William Bayard, one of the Managers on the part of this Province in the dispute relating to the Boundary between this Province & New Jersey, before the Commissioners appointed by his Majesty for Determining the same, has desired me to transmit by his hands Duplicates of the Letter I had the honour to write

to your Lordship, No. 3. and of the other Papers sent at the same time on that subject. He is much interested in the Lands which are in dispute. I cannot therefore doubt of his being able to give your Lordship full information on the part of New York, more fully than I can. I must therefore beg leave to refer your Lordship to him, for what farther information you may desire. I am with the highest respect, My Lord, Yr most obedient & faithfull servt

TO THE R^T HON^{BLE} LORDS COMMISSIONERS FOR TRADE
& PLANTATIONS.

New York, Nov^r 30th 1769.

MY LORDS,

In obedience to his Majesty's Commands signified by his Order in Council of the 15th Day of September last, I have this day administered to John Penn, Esq. Deputy Governor of Pensilvania the Oaths as directed in that Order, and I have likewise taken from him, in his Majesty's name a Bond with sufficient security, which I have now the honour to enclose to your Lordships, agreeable to his Majesty's Commands. I am my Lords with great submission, Your Lordships.

TO HIS EXCELLENCY JOHN WENTWORTH, Esq, CAPT^N
GENERAL & COMMANDER IN CHIEF OF THE PROV-
INCE OF NEW HAMPSHIRE.

Fort George Dec^r 2^d 1769

SIR,

I have the honor of your Excellency's Letter of the 6th of October by M^r Whiting. It gives me great concern that any officer of this Government should so far recede from his duty, as you have been inform'd M^r

Wells has done. It is not in my power to obtain the Prooves. I must therefore rely on your Excellency & M^r Whiting to furnish me with them. I shall then and upon all occasions cheerfully embrace every measure to promote his Majesty's Service, and encourage all his officers in the discharge of their Duty. I am with great Respect, &c &c

TO THE R^t HON^{ble} EARL OF HILLSBOROUGH P.S.S.

Duplicate by the Harriott.

No. 5.

New York, Dec^r 4th 1769.

MY LORD,

By my letters No. 1. and 2 I enformed your Lordship of the assurances I had of the general disposition of the People to preserve the Province in Tranquility. Since that time the Merchants of this Place received a Letter from the Massachusetts Bay, exhorting them to enter into new Resolutions of not importing any British Manufactures until all the acts of Parliament which lay duties on Goods Imported into the Colonies, are repealed. This letter I am well informed was read in a full meeting of the Merchants of this Place—that not one Person spoke in favor of it, and that it passed over without the least notice. This, and some other Things my Lord, gives me hopes that a more moderate Temper begins to gain ground among the People; and that many incline to avoid, as much as possible, what may irritate or give offence to the parent Country.

I delayed meeting the Assembly longer than usual at this season, when the supplies for the support of Government are annually Granted, in hopes of receiving your Lordship's commands in relation to a Bill for emitting £100,000 on Loan, in Bills of Credit, the passing of which People have much at heart.

Inclosed are printed copies of my speech to the Council and assembly at the opening of the Session and

of the Councils and Assemblies addresses to me, in answer to what I had recommended to them. From these your Lordship may form some Judgment of their Disposition.

The Bill for emitting £100,000, in Bills of Credit was on their first meeting ordered to be brought in, and I suppose it will be one of the first Bills which will pass the House of Assembly, and I expect will receive the Council's concurrence. The Speaker tells me it is the same which passed last Session, of which Sir Henry Moore transmitted a Copy to your Lordship.

The greatest number of the present Assembly I think, are now very sensible how much it is the interest of the Colonies to have the mutual Confidence between Great Britain and the Colonies restored; and that it is essential to their well being, but as they know not with any certainty how far the Parliament may comply with their Petitions, they are carefull not to lose their popularity, which some among them are endeavouring to bring about. This may excuse some parts of their Proceedings which have not so good an appearance as I wish particularly their *concurring* with and *adopting* the Resolves of the Virginia Assembly of the 16th of May last, which had been transmitted to them by the Speaker of that Assembly; and which in the present circumstances of this Place, it is said, they could not avoid taking some notice of. I hope at the conclusion of the Session, I may be able with some certainty to give your Lordship an agreeable account of their Disposition. I have the honor to be, with entire submission, My Lord,

TO THE R^T HON^{BLE} EARL OF HILLSBOROUGH, P. S. S.

No. 6.

New York, Dec^r 16th 1769.

MY LORD,

The Assembly, from the 21st of last Month till yesterday, sat without entering on the Provision to be

made for the Troops quartered in this Place, they then came to the Resolves of which I inclose a Copy, that your Lordship may receive all the information I can give you of their present Disposition.

The Consideration of this matter was delayed in order, as I was told, that the House might be brought to an unanimous Resolution. But your Lordship will observe that tho' the Resolve for granting a sum of Money for supplying the Troops did pass, Nem. Con. yet they unhappily differed in their Sentiments upon the mode of granting the Money—and the manner in which it was carried, was the most that could be obtained, by those who would willingly have given the whole Sum out of the Treasury. The difference of sentiment, I think has arisen from the attention which many of the Members pay to their popularity, and from the artifices of others who may be unwilling that the assembly should at this time when They have not the Lead, gain too much Credit. Great Pains have been taken, not only in this Town, to intimidate the Members, but in the Counties to procure Instructions against granting any Money for the Troops otherwise than out of the Money to be emitted on Loan, and I believe this only has influenced several Members who it was confidently expected would have voted otherwise than they did.

This fluctuating Disposition of several of the Members makes it impossible for me at this time, my Lord to say on what Terms they may now offer the Bill for emitting Bills of Credit, or what will be the issue of this Session, but I am resolved so far as it is in my power, to preserve the Colony in Tranquility, & I doubt not I shall be able to do so, notwithstanding of all the endeavours of some People to raise up Dissentions. I have the honor to be with great submission, My Lord,

TO HIS EXCELLENCY JOHN WENTWORTH, ESQ, GOV^r
OF N. HAMPSHIRE.

New York, Dec^r 20th 1769.

SIR,

From proofs laid before this Government it appears that a number of People settled within a few years past in the County of Albany, between Hudson's River and the highth of Land, usually called the Green Mountain, have thrown off their obedience to the authority of this Province, alledging that their Settlements are within the Limits of New Hampshire. In imitation of the eastern Colonies they have chosen Magistrates or Select Men to preside over them; and so dangerous is the spirit by which they are actuated, that in October last upwards of sixty of them had recourse to arms for the avowed purpose of opposing and defeating the Partition of a Tract of Land called Wallomscack granted under the Great Seal of this Province in 1739. The Commissioners who were authorized to perform this service by the act of our Legislature for the more effectual collecting his Majesty's Quit Rent, explain'd the nature of their Office, & produced the Powers under which they proceeded, and the civil magistrate interposed his authority and threaten'd to raise the Posse of the County, but neither perswasions nor menaces could have the least effect; the Rioters declaring that they could out number the Posse, and that they were resolved to defend the Limit they claim'd under New Hampshire to the last drop of their Blood. The event might have been fatal, had not the Commissioners, apprehensive for safety of their Persons, declined the farther execution of their office.

A Confederacy so insolent and dangerous has alarm'd this Government, and proper Measures are directed for bringing the offenders to Punishment, least the course of justice should be farther obstructed, and that part of the Province be involved in a state of Anarchy. I

am confident that you will be equally concern'd with me at the prospect of the effusion of Blood which must follow if they continue obstinate. In your Excellency's power it may be to convince these rash People of their Delusion, by makeing it public that they cannot expect your Countenance or Protection. Indeed nothing appears to me so likely to bring them to a speedy sense of their Error, and a return to their Duty. I have therefore thought it adviseable to inform your Excellency of this Incident, and the more especially as by setting up their Claim under your Government, they seem to flatter themselves that they will be favoured with the weight of your Authority. I have the honour to be, Sir,

TO THE RIGHT HON^{BLE} EARL OF HILLSBOROUGH.

No. 7.

New York, January 4th 1770.

MY LORD,

His Majesty's Order in Council of the 24th of July, 1767, restrains me from granting the Letters Patent pray'd for by the inclosed Petition. I am well assured the facts are as set forth by the Petitioners—and whatever equitable Claim those Persons may have who took Grants of Land from the Government of New Hampshire lying Eastward of any Lands that had been granted by this Province, certainly cannot extend to such as did lately obtain Grants from that Government of Lands lying nearer Hudson's River than Lands which granted under this Province upwards of 60 years agoe—especially when it is consider'd that they pass'd over a large extent of Lands, much nearer to Connecticut River, to come at those Lands which lye within the ancient Possession of this Province—that some of them even seated themselves on the Lands which the Settlers under this Province had been oblidge'd to abandon at the commencement of the late War—and that they obtain'd Grants from New Hampshire for any of these Lands

without paying the least Regard to the prior Grants of this Government to which they notoriously belonged.

The Petitioners have been at considerable Expence in exploreing and surveying these Lands, and have hitherto been prevented from receiving the benefit of his Majesty's Bounty. I therefore thought it necessary my Lord to comply with their desire that I should transmit their Petition to your Lordship in order to obtain his Majesty's Commands thereon.

I find my Lord that the settlement and cultivation of the Country lying West of Connecticut River, which was formerly granted by the Government of New Hampshire is entirely retarded by the controversies which have arisen between those Proprietors and this Government. When I formerly had the administration, I had resolved on Measures respecting those Lands, which I was then assured would give entire satisfaction to the People, and would produce the immediate settlement of the Country, and a very considerable augmentation of his Majesty's Quit rents.

I found the People who had taken Grants of Lands from New Hampshire, West of Connecticut River, very willing to take new Grants for the same Lands from this Government—the expence of taking out new Patents being their only Objection. To obviate this, I told as many as then applied to me that I would give them Grants, and leave it to themselves to pay me such proportion of my fees, as they could conveniently do: and that I would use my influence with the other officers of Government to lower their Fees in these Cases. This was so agreeable to the People that the Proprietors of several Townships immediately proceeded to take the necessary steps for obtaining the new Grants, but I was prevented from putting the seal to any of them, by the arrival of Sir Henry Moore. He afterwards took his full fees for one of those Grants which had been very near ready for the Seals before he came; and I am told refused to pass any without his full Fees were paid. This gave great disgust to the People, and

occasioned those applications which have since been made to the King on this subject.

I think it my duty to submit my Sentiments on this Matter to your Lordship, as I am still of opinion that new Grants given by this Government to those People who have an equitable Pretence by their former Grants from New Hampshire, under such Fees of office as shall be no way Distressing will be the shortest and most effectual Method to do Justice and give satisfaction to the Proprietors—That it will immediately produce the settlement of that large and valuable Tract of Country, and greatly encrease his Majesty's Revenue. The difficulties which have obstructed the Grants of those Lands for some years past, being removed, will most effectually promote the Grant of that Tract of Land design'd as I am inform'd for the Society for propagating the Gospell, and of other Tracts which the Trustees of the College & Church in this City have Petition'd for.

These Matters are mentioned my Lord with entire submission to your Judgment and his Majesty's Pleasure by, My Lord, your Lordships most faithfull & obedient servant

TO THE R^T HON^{BLE} EARL OF HILLSBOROUGH.

No. 8.

New York, 6th Janry 1770.

MY LORD,

I have the honour of your Lordships Letter of the 4th of November No. 34. At this time when difficulties in the administration are unavoidable, the assurances your Lordship is so kind to give of your support and protection, gives me strength in performing my Duty.

When the Bill for supplying the Troops quartered in this Place was brought into the Assembly, the party in opposition made a violent effort to disconcert all the present Measures by exciting the People to appear against the Bill. For this purpose the inclosed printed

Paper, directed "*To the betrayed Inhabitants of the City and Colony of New York*," was, the night before the last Packett sail'd dispersed thro' the Town. I transmit your Lordship likewise two Proclamations issued on this occasion.

Tho' some of our News Papers make the meetings of the Sons of Liberty, as they call themselves, on this occasion to be numerous and of consequence, the Party was really disappointed. The numbers who appeared were too small & inconsiderable to have any weight, or be of any service to their purpose. They have been farther disappointed in three attempts since made. People in general, especially they of property, are aware of the dangerous Consequences of such riotous and mobish proceedings.

The Supply of the Troops is unpopular both in the Town and Country—You know my Lord it is generally an unpopular Subject in the English Government, and much Pains is taken to work upon this Prejudice of the People here.

However, the Party in the Assembly did not think proper to oppose the supply directly, but proposed that it should be paid out of Bills of Credit to be emitted by a Bill then in the House. In which case that act must take place immeadiately or there could be no supply. This made it necessary for the Friends of Government to compromise the Matter by granting £1000 out of the Treasury, and one other £1000 out of these Bills of Credit: and even with this Compromise the Bill for supplying the Troops was carried by a very small Majority; and it could not have been carried, had I not given the friends of administration expectations that I would assent to the Bill for emitting Bills of Credit, if it were in the same Terms with the Bill passed the last Session and transmitted to your Lordship by Sir Henry Moore—and six months allowed to know his Majesty's Pleasure before the Bills of Credit can be emitted.

Yesterday my Lord I passed the Bill granting £2000

for supplying the Troops quartered in this Place with necessaries; and the Bill for emitting £120,000 in Bills of Credit, being ready for my assent, I call'd together the Council who all attended except Sir William Johnson who is at 200 Miles distance. His Majesty's Instructions of July 15th 1766, for creating and emitting Paper Bills of Credit was laid before them. After having considered the same and reasoned thereon, the Gentlemen of the Council unanimously advised me to give my assent to the Bill for emitting £120,000, in Bills of Credit, as being absolutely necessary in the present circumstances of this Colony; and I accordingly gave my assent to it in the usual manner.

It is the same with the Bill transmitted to your Lordship by Sir Henry Moore (except in two or three immaterial Clauses, on the appointment of Loan officers in the cities of New York and Albany, and unavoidable alterations in Time) which the Lords Commissioners for Trade and Plantations must have had under consideration before this Time. The Bills of Credit to be emitted by this act, are to bear date the 10th of June next—the Interest is to arise from, & the Emission to be on the last Tuesday of that Month; which is near Six Months from this Time. This is equivalent to a suspending Clause till his Majesty's Pleasure shall be known: for his Majesty's Pleasure certainly may be transmitted before that time. I now my Lord transmit an exemplified Copy of the Act under the seal of the Province in a Box directed to the Board of Trade and Plantations. No public Business could have been carried on in the Assembly without my Assent to this Bill—The call for it both in Town & Country was so general that the Friends of government in the assembly could not have been supported without it, and the administration must have been made very uneasy to me. Your Lordship may be assured I discover nothing in it prejudicial to his Majesty's Service: and as the interest Money arising from these Bills of credit cannot be disposed of without the Governor's

consent, it may be a Fund hereafter for supplying the Troops. The King's approbation will give general satisfaction, and when People are in good humour, his Majesty's Service may be carried on more effectually than when they are in a contrary Disposition.

I enclose another printed Paper, that your Lordship may see the spirit of the Party who oppose the measures of Government: at the same time, it may not be improper to tell you that no Governor in chief has been at any Time attended by greater numbers on Newyears Day than I was on the last with their Compliments of the Season. When what has appeared in this Place in past times is considered, my mentioning this will not be thought to proceed merely from vanity.

The Assembly are still sitting; they have passed none but the usual Bills except those which I have already mentioned to your Lordship. What remains to be done for his Majesty's Service in this Session, I expect will be done without difficulty. I shall think myself extremely happy if my endeavours in the Performance of my Duty obtain his Majesty's approbation. Without doubt your Lordship perceives the difficulties which attend the administration of government at this Time in all the Colonies, and therefore I flatter myself with your most favourable Construction of the Measures I have thought necessary for his Majesty's Service, and that you will allow me the honour of being, My Lord, Your most obedient & faithfull serv^t.

TO THE R^t HON^{ble} LORDS COMMISSIONERS FOR TRADE
AND PLANTATIONS.

New York, 6th Jan^y 1770.

MY LORDS,

Yesterday I passed a Bill granting £2000 for supplying the Troops quartered in this Place, with neces-

saries. And a Bill for emitting £120,000 in Bills of Credit, being ready for my assent, I call'd together the Council who all attended except Sir William Johnson who is 200 miles Distance.

His Majesty's Instruction of July 15th 1766 for creating and emitting paper Bills of Credit was laid before them—After having considered the same, and reasoned thereon, the Gentlemen of the Council unanimously advised me to give my assent to the Bill for emitting £120,000, in Bills of Credit, as being absolutely necessary in the present circumstances of this Colony, and I accordingly gave my assent to it in the usual form.

My Lord Hillsborough by his Letter of the 4th of November informs me that a Bill for the same purpose passed the last session of Assembly and transmitted by Sir Henry Moore, was, on your first meeting together to be laid before your Lordships, for your Considerations, to which the Bill I have now passed is in every part similar. But it is my Duty to transmit without Delay, by this Packet, the act as I have assented to it under the great Seal of the Province. By this means I hope that the Time allowed by the Act before the Bills can be emitted, is in effect equivalent to the suspending clause enjoined by the Instruction: as your Lordships have had sufficient Time to consider the same, and his Majesty's approbation or Disallowance may reach this Place as effectually as could be done had the suspending Clause been inserted. The Bills of Credit are to bear date the 10th Day of June next, and are not to be emitted till the last Tuesday of that Month.

As I have in my Letter to my Lord Hillsborough, particularly set forth the reasons which induced me to give my assent to the bill as it now stands enacted, I think it needless to trouble your Lordships with a repetition of them. I hope they are such as will convince your Lordships that, the circumstances of the Government considered, I have not acted inconsistently with my Duty, or the Trust with which his Majesty has honoured me.

I likewise transmit to your Lordships another Act which I have passed at this Time, Explaining the Duty of the Loan Officers—it is an appendage to the other act, but has nothing in it I think which can affect his Majesty's Interest, or deserve any particular Remarks.

The Assembly is still setting; as soon as the public business is done and the session closed, I shall as usual transmit all the Acts which shall be passed.

I shall be extremely happy to obtain the honour of your Lordships approbation of my Conduct, and of being in your Lordships estimation, My Lords

COPY OF AN AGREEMENT MADE AND ENTERED INTO BETWEEN HIS EXCELLENCY GENERAL GAGE COMMANDER IN CHIEF OF HIS MAJESTY'S FORCES IN AMERICA, AND THE HON^{BLE} CADWALLADER COLDEN ESQ, HIS MAJESTY'S L^T GOV^R AND COMMANDER IN CHIEF OF THE PROVINCE OF NEW YORK FOR LAYING OUT £2000 GRANTED FOR SUPPLYING HIS MAJESTY'S TROOPS QUARTERED IN THIS PROVINCE WITH NECESSARIES FOR ONE YEAR FROM THE 1ST OF JANUARY, 1770.

Whereas by an Act of Parliament passed in the ninth year of his Majesty's Reign intituled an Act for amending and further continuing an Act of the sixth year of his present Majesty's Reign intituled an Act to amend and render more effectual in his Majesty's Dominions in America, an Act passed in this present session of Parliament entitled an Act for punishing Mutiny and Desertion and for the better payment of the Army and their Quarters. It is Provided and Enacted that whenever any Troops shall march through or be stationed in any Place in North America, it shall and may be lawfull for the Civil Magestrates select Men or other

Person or Persons (appointed by Act of Parliament or by any Law of Such Province Colony or Plantation as aforesaid to quarter and make provision for Troops) as likewise for the Officer Commanding the Troops so marching or station'd as aforesaid by mutual agreement signed by the respective Parties to provide Quarters for the said Troops in any manner most convenient to them and to the Country. Any Act or Thing to the Contrary notwithstanding so as that no expence be brought on the Crown by such Agreement. And Whereas by an Act of the Lieut Governor, Council and General Assembly of the Province of New York, pass'd the fifth Day of January Instant, the Sum of Two Thousand Pounds is granted for furnishing his Majesty's Troops quartered in that Colony with necessities for one year, from the first Day of January One thousand seven hundred and seventy. Now these Presents Witness that in pursuance and in order to answer the intention of the Act of Parliament hereinbefore recited, It is mutually agreed by and between His Excellency the Honorable Thomas Gage General & Commander in Chief of his Majesty's Forces in North America, and the Honorable Cadwallader Colden, Esquire, his Majesty's Lieut-Governor and Commander in Chief of the Province of New York, that the said sum of two thousand pounds so granted for the uses aforesaid shall be applied in the manner, and for purchasing the particular articles following, that is to say—

For a Bed and a Blanket for each Birth amounting in the whole to the sum of.....	£300 : 0 : 0
For Firewood for 77 Rooms the sum of..	1101 : 0 : 0
For Firewood for three Guard Rooms the sum of	81 : 0 : 0
For Candles for 77 Rooms the sum of...	83 : 0 : 0
For Candles for the Guard Rooms the sum of	10 : 0 : 0

For Repairs the Sum of.....	20 : 0 : 0
For Lodging for such officers for whom there shall not be Rooms in the Bar- racks, the sum of.....	83 : 0 : 0
For Utencil Money the sum of.....	37 : 0 : 0
For the Salary of the Barrack Master the sum of	100 : 0 : 0
	£1815 : 0 : 0

And that the residue of the said sum of Two thousand Pounds, amounting to One hundred and eighty five pounds, together with so much as shall be saved in the purchasing of the above articles shall be applied towards the purchasing of Mollasses and establishing a Spruce Brewery for the Soldiers. In Witness whereof the said Parties have respectively Signed this Agreement, In the City of New York the fifteenth Day of January in the year of our Lord 1770

Signed THO^s GAGE
 CADWALLADER COLDEN

Copy sent to Lord Hillsborough February 21st 1770

TO THE HON^{ble} JOHN PENN, ESQ, GOVERNOR OF PEN-
SILVANIA—THE SAME, WITH THE NECESSARY AL-
TERATIONS TO HIS EXCELLENCY GUY CARLETON,
CAPTⁿ GENERAL AND GOVERNOR IN CHIEF OF
QUEBEC.

New York, 6th February, 1770.

SIR,

The Legislature of this Province, conceiving it impracticable without the concurrence of other colonies to establish any Plan for the Regulation of the Indian Trade that might effectually answer his Majesty's In-

tentions in committing the care of this important object to the respective Legislatures, did in their last Session pass a Law for appointing Commissioners to meet with those of the neighboring Governments to fix on a general Plan for the Purpose. A Measure so essential to the Interest of the several Colonies concern'd in this beneficial Commission, will I trust be chearfully come into by all, and if adopted by your province, I hope you will endeavour to render its utility as extreme as possible by recommending it to the Governments of Virginia and Maryland. I shall loose no time in communicating the Proposal to the Governor of Quebec, and giving you the earliest Intelligence of the Resolutions of that Government: and until the Meeting of the Commissioners takes Place, shall be glad to co-operate with you in promoting the success of a Measure with which the Tranquility and Prosperity of both Provinces are so intimately concerned, I am

TO THE RIGHT HON^{BLE} EARL OF HILLSBOROUGH &c.

Duplicate by the Lord Hyde—in April.

No. 9.

New York, 21st February, 1770.

MY LORD—

I have the honour of your Commands No. 35, of the 9th of December, with his Majesty's additional Instructions to me which shall be punctually obeyed.

I know not how the objection made to the Bill for emitting £120,000 in Bills of Credit can be removed, for unless the Bills be received in the Loan Office and Treasury they cannot be paid in or sunk, nor can the interest be applied to the uses for which it is designed. The making of them a Tender is carefully avoided, Nor can they be a Tender in any sense by this act in any contract whatsoever, the Loan office and Treasury only excepted: but tho' those offices are obliged to

take them in, no Person is obliged to receive them from either the one or the other, Nor can they be a Tender of any Duty Quit rent or Fine. By the preceding Packett I transmitted to your Lordship the Bill under the Seal of this Province, with my reasons for giving my assent to it, which I hope will be satisfactory. It is a consideration of some importance to the Government that as the Interest money cannot be applied without the consent of the Governor, the supply for the Troops quarter'd in this Place, may for the future be secured, which has at all times met with opposition in the assembly, and has been difficultly obtain'd.

The Session of the Assembly ended the 27th of January to general satisfaction notwithstanding the assiduous endeavours of a Party in opposition to Government to embarrass Affairs. A great number of Bills were passed at that Time for continuing or reviving former Bills, and on subjects which relate to particular Counties: none of them of consequence to deserve your Lordship's attention, except two. One intituled "An Act declaring certain Persons herein mention'd incapable of being Members of the General Assembly of this Province," an attested copy of which I inclose, as the Acts pass'd last session could not be transcribed for the Seal before the Packet sails. By this Act the Judges of the Supreme Court, and some other Officers of the Government were made incapable of being elected Members of Assembly. The Council amended the Bill by striking out all the other officers of Government to which amendment the Assembly agreed. The reasons given for this Bill are:

1st That none of the Judges in Great Britain or Ireland are allowed to set in the House of Commons.

2nd That in good Policy, Legislation, and the Execution of the Laws, ought not to be in the same person.

3^{rdly} That in all Elections the Judges must have an improper influence on the Electors.

Lastly. It has been observed that in former assemblies, where the Judges have had seats, they became

attached to, or Leaders of Parties or Factions in the House; this gave a suspicion that they were often byassed in their Judgment on the Bench, in the favour of Party Interest. All cause of Jealousy of this kind ought to be avoided.

The present Assembly have repeatedly refused to admit Mr. Livingston, who is a Judge of the Supreme Court, to have a seat in their House, upon a Resolve made by them in their former session: this may be an unconstitutional Power assumed by the Assembly; and is therefore more safely vested in an Act of Legislature. At all events I thought it for his Majesty's Interest that I should give my assent to the Bill, as thereby the matter is subjected to his Majesty's Pleasure, which it was not, while it stood on a Resolve of the Assembly.

The other Bill which may deserve your Lordship's attention is entitled "An Act to enable all Persons who are his Majesty's liege subjects either by Birth or Naturalization, to inherit and hold real Estates notwithstanding any defect of Purchase made before Naturalization within this Colony." While this Bill was before the Council I told them that tho' the Bill in my Opinion was framed with much Equity, and not liable to the same objections with the Bill to which Sir Henry Moore refused his assent, yet as the Kings Interest may be affected by it, I would not give my assent without a suspending Clause was added; which they did by an amendment and the Assembly agreed to it. On this occasion I think it my Duty to inform your Lordship that the reason of the Assembly's being averse to suspending Clauses is, they tell me, that such Bills have often hung long in suspence, without being taken into consideration.

All the Bills passed the last Session will be ready to be transmitted by the next Packett.

I inclose your Lordship the Copy of an Agreement made between Gen^l Gage and me, in pursuance of the Act of Parliament, for applying the Money granted by the last Act of Assembly for the Troops quartered in

this Place. I doubt not it will give your Lordship pleasure to find this affair put upon a certain and regular Footing for the present: and which must probably produce the like for the future.

I have the satisfaction to inform your Lordship that among the Bills pass'd this Session, is one for appointing Commissioners to meet Commissioners from the neighbouring Colonies to fix on a general Plan for regulating the Indian Trade. This was the best Measure that could be taken upon his Majesty's gracious reference of this important affair to the Legislatures of the several Colonies: and if properly adopted by all concern'd, may produce the most beneficial Plan. I have sent Copies of our Act to the Governors of the neighbouring Colonies; and have press'd them to procure the like to be pass'd in their Governments.

My Lord, it is my duty to enform your Lordship that a violent Party continue their assiduous Endeavours to disturb the Government by working on the Passions of the Populace, and exciting Riots, tho' in every attempt they have hitherto been unsuccessful. The last might have been of fatal Consequence if not prevented by the prudent conduct of the Magistrates and officers of the Army—An ill humour had been artfully worked up between the Towns People & Soldiers, which produced several affrays, and daily, by means of wicked Incendiaries, became more serious. At last some Towns People began to arm, and the soldiers rush'd from their Barracks to support their fellow soldiers. Had it not been for the interposition of the Magistrates and of the most respectable Inhabitants, and of the officers of the army, it had become a very dangerous affair—As it was only a few wounds and bruises were received on both sides. A very respectable number of the principal citizens publicly met together & sent 42 of their Number to the Mayor to assure the Magistrates of their assistance in preserving the peace of the Town: and the officers of the Army were no less assiduous in quieting the minds of the

soldiers, and in guarding against every accident which might renew any Disputes with the Towns People. Since which the Place has remained quiet. It is not doubted here that these Disturbances were promoted by the Ennemys of Government in order to raise an indignation against the Assembly (then setting) for granting Money to the Soldiers who were represented as ready to cut the throats of the citizens.

The Persons who appear on these occasions are of inferior Rank, but it is not doubted they are directed by some Persons of distinction in this Place. It is likewise thought they are encouraged by some Persons of note in England. They consist chiefly of Dissenters who are very numerous, especially in the country, and have a great influence over the Country Members of Assembly. The most active among them are Independents from New England, or Educated there, and of republican Principles. The Friends of Government are of the Church of England, the Lutherans, and the old Dutch Congregation, with several Presbyterians. From this the reason will appear of some Bills having passed the House of Assembly in favour of the Dissenters, and in prejudice to the few Ministers of the Church of England who have Stipends by a Law of this Province. There was less opposition to them in that House from the confidence they had that they would not be pass'd by the Council—they were accordingly rejected there. I must leave it to your Lordships judgment whether these things deserve his Majesty's attention: and I transmit to the Plautation Board a printed Copy of the Journal of the Assembly to enable you to form your judgment thereon.

In my Letter of Jan^y 6th No 8. I inclosed a printed Copy of a Libel directed *To the betrayed Inhabitants of the City & Colony of New York* with a Proclamation I issued with the advice of the Council & on an Address of the Assembly promising a Reward of £100 for the Discovery of the Author. One Alexander McDougal is now in Jail, committed, on the Oath of

the Printer and his Journey Men, as the author & Publisher of that Libel. He is a Person of some Fortune, and could easily have found the Bail requir'd of him, but he chose to go to Jail and lies there immitating Mr Wilkes in every thing he can. When he comes to his Tryal it will appear what Dependance we may have on a Jury of this Place. The most respectable Persons in the Place openly declare their Opinion that he highly deserves punishment.

My Lord, I now expect soon to remove from the administration on the arrival of the Earl of Dunmore. It gives me great satisfaction that in this short administration I have had an opportunity of doing something of importance for his Majesty's service—That a good agreement has been supported between the several Branches of the Legislature—the friends of Government Encouraged—the promoters of Discord check'd. His Majesty's gracious approbation of my Conduct will make an old Man happy; and will prevent the unfavourable Impressions which a sudden removal from Administration may occasion. This is however with great humility submitted by, My Lord

TO THE RIGHT HON^{BLE} LORDS COMMISSIONERS FOR TRADE
& PLANTATIONS.

New York 21st February 1770.

MY LORDS,

I transmit to your Lordships a printed Copy of the Journal of the last Session of Assembly, began the 21st of November and ended the 27th of January. The number of Acts passed in this Session is so large, tho' mostly to continue or revive former acts, that they could not be got ready for transmitting under the seal by this Packett. They will be sent by the next. By the last Packett I transmitted to your Lordships the act for emitting £120,000 in Bills of Credit. At this Time I

send Lord Hillsborough an attested copy of an Act for rendering the Judges of the Supreme Court incapable of being elected Members of the Assembly—with my Remarks on it—which, with another act to confirm real Estates notwithstanding any Defect of Purchase made before Naturalization within this Colony, passed with a suspending Clause, are all that I think can deserve any particular attention.

The Council rejected some Bills passed by the Assembly in favour of Dissenters, and to the prejudice of the few Clergy of the Church of England who have Stipends by a Law of this Province—so that I only withheld my assent from one Bill sent up to me, which being for regulating the Militia, & not conformable to his Majesty's Instructions, I would not pass.

I have the pleasure to inform your Lordships that the public affairs have been transacted throughout the last Sessions, with great good Humour & agreement, between the several Branches of the Legislature—and that a peaceable & orderly Disposition among the People has been much Encouraged & Promoted—notwithstanding the unremitted Endeavours of a Party in opposition to Government to embarrass every Transaction and to create Disturbances. I am, My Lords, &c. &c.

TO HIS EXCELLENCY JOHN WENTWORTH, ESQ, CAPTAIN
GENERAL & COMMANDER IN CHIEF OF NEW HAMPSHIRE.

New York, 26th March 1770.

SIR,

I have the honour of your Excellency's Letter of the 10th of February last, with the several Papers, accompanying the same—all which I have communicated to his Majesty's Council, who still have the same under Consideration; but have desired me to inform you in respect to the charge against M^r. Wells having taken

an assignment of the affects of the Dean's, that he did this in consequence of M^r Duane's opinion who advised as the Effects were of little value, and the offenders had nothing to subsist themselves while in Gaol that what goods they had should be sold, and the Monies applied to their Maintenance, which were applied accordingly: wherefore it appears that this was an Act of Humanity and not criminal in M^r. Wells—He is I am inform'd daily expected in this City, and when he shall have given in his answer to the several Matters of Complaint, I shall transmit copies therefore and at the same Time impart to you the Result of the Council on your Memorial, & their final Opinion concerning the Conduct of M^r. Wells. I am, &c.

TO HIS EXCELLENCY GUY CARLETON, ESQ. GOVERNOR
OF QUEBEC.

New York, April 16th 1770.

SIR,

The assurance I have received by your Excellencys Letter of the 13th of March last that you intend to send Commissioners from your Government in order to form Regulations for the Indian Trade in conjunction with the neighbouring Governments gives me great pleasure. The knowledge & Experience the Inhabitants of Quebec have in the Trade & Genius of the Indians must be extremely useful to the other Governments in their Deliberations, & no Plan I suspect can be effectual for the general purposes designed without the concurrence of your Government. I should think myself very happy could I in any manner contribute to the perfecting a Plan which may be of the greatest utility to all the Colonies, but without Doubt the Earl of Dunmore, who is appointed Governor of this Province, will be arrived before the Time the Commissioners can meet.

The Gentlemen of his Majesty's Council think that the 10th of July may be the most proper Time for the Commissioners to meet at this Place, & have desired me to signify the same to you & to the Gov^r of Pennsylvania, to whom I write at this Time for that purpose, with a desire that he may communicate the same to the Southern Governments.

On the 13th of Feb'y, I forwarded a Box with Dispatches for you from the Secrettary of States office, which I hope have come safe to hand. I am with great Respect, Sir

TO THE HON^{BLE} JOHN PENN, ESQ, GOV^R OF PEN-
SYLVANIA.

New York April 16th 1770.

SIR,

The inclosed Copy of a Letter from Gov^r Carleton to me will inform you that he has agreed to send Commissioners from that Government to meet those of the other Governments for the purpose of forming Regulations for the Indian Trade; and that he has named this City as the most convenient Place for the Commissioners to meet in. Upon this the Gentlemen of his Majesty's Council have advised me, as the best method to save Time, to inform you that we are of Opinion the first meeting of the Commissioners should be the 10th Day of July next in this City—Which Sir I hope will be agreeable to you, and that you will please to forward the Notice to the other Governments Concern'd, as I do at this Time to Gov. Carleton. I make no doubt the Commissioners from Quebec will be here by that day. I am,

TO THE R^T HON^{BLE} EARL OF HILLSBOROUGH.

No. 10.

New York 25th April 1770.

MY LORD,

To have fallen under his Majesty's Displeasure, as I find I have by your Lordship's Letter of the 17th of February No. 37, gives me great Concern. I have had the honour to serve the Crown in this Province near 50 years, and have heretofore been happy in his Majesty's approbation of my Conduct. It adds greatly to my affliction that I should have forfeited it, when I am so near the close of my Life: but I have this comfort that however I may have err'd it was not from any want or neglect of Duty, but from an error in Judgment thinking that the giving my assent to the Bill for emitting Bills of Credit at the time I did, was greatly for his Majesty's Service in preventing the Tumults & Disorders with which the Province was at that Time threaten'd. The Chief Justice and the other Gentlemen eminent in the Profession of the Law, were present when the Council unanimously advised me to give my assent to that Bill, and were of opinion that it contained nothing in it contrary to the Act of Parliament, and that the time allowed by the Act before it was to take place was equivalent to a suspending Clause. Your Lordship blames me for giving my assent when I knew that a similar Bill transmitted by Sir Henry Moore was under consideration & before I knew the Result: but my Lord the circumstances of the Province at that Time would not permit Delay; and I must own it was some inducement to me to give my assent, knowing that a similar Bill was under consideration, & consequently that his Majesty's pleasure must be known before any part of the Act could take place—and so it has happened. And in pursuance of your Lordships Commands I immediately publish'd his Majesty's disallowance of the Act that all Persons may govern themselves accordingly.

My Lord, I flatter myself you will indulge me in giving a state of the Province at that Time. A violent Faction prevail'd in opposition to Government and the authority of the Parliament of Great Britain which from many circumstances appeared to be acting in concert with a similar faction at Boston. Numerous Papers were dispersed about the Town exciting the People to sedition, and to exasperate them against the soldiers then quarter'd in the Place. The Soldiers walking peaceably in the Streets were attack'd beat and abused. This of consequence drew on their Resentment, & we should have had the same mischievous Effects produced Here, which have since happened at Boston, had not a Body of the principal Inhabitants assured the Magistrates of their assistance in preserving the Peace of the City, which with the prudent conduct of the Magistrates and of the officers of the Army, prevented this wicked Design. Of this I informed your Lordship in my Letter No. 9.

The similarity of the Proceedings of the Faction in this Place and in Boston will enduce a belief that they acted in Concert; but besides this, one of the Judges, who is known to have connections with those who are thought to be the Leaders of the Faction, advised the withdrawing the Troops from this Place as the only method to allay the Disturbances; and one of the Council who is known to have the same connections with the Judge strenuously insisted that the withdrawing the Troops was the only means to restore Peace to the Place. Those I think strong proofs that the views of the Faction in this Place and in Boston were the same. That they did not succeed here was owing to the principal Inhabitants being entirely pleased with the conduct of the administration, & were resolved to support it; of which I have since that time received several public acknowledgments. The giving my assent to the Bill for emitting Bills of Credit served much to reconcile the Minds of the People & to put them in good Humour. Had I refused my assent to

this Bill, and had the Assembly granted no Money for the Troops, as in that case they would not, the Faction would have succeeded in their Designs to disturb the Government, and it is not easy to say what might have been the consequence. Upon a review of my Conduct under these circumstances, I hope my Lord his Majesty may be graciously pleased to think more favourably of it.

The good Effects of that Harmony which prevailed between the several Branches of the Legislature in the last Session is very evident in the good order and submission to the authority of Government which has ever since subsisted in this Place. Government has renewed its strength, which the events of some past years had greatly weakened. A disappointed Faction, by publishing the most gross Calumnies and impudent Lies, in order to asperse my Character, and the Characters of the Gentlemen join'd with me in the administration, have drawn upon themselves a general detestation, and so far sunk their own characters in the Estimation of every Man of Reputation that for the future they can have no general Influence—and I hope from all these circumstances the administration will be made much more easy to my Successor, and that I shall have the pleasure to deliver up the Government in good order & Tranquility to his Lordship.

The Grand Jury of this City, now sitting, have found an Indictment against Alexander M^cDougall for publishing a Libell against the Government which I mentioned to your Lordship in my Letters No 8 and 9. It's thought he cannot have his Tryal this Term, as the Court will be fully employ'd the few Days they have to sett, in the tryal of capital Criminals.

The Governments of Quebec and Pensylvania have agreed to send Comm^{rs} to meet the Comm^{rs} of this Province in order to form some Plan for regulating the Indian Trade, & I expect they will meet at this Place the 10th of July next.

As I have had my Duty constantly before my Eyes,

& have pursued it sincerely to the best of my ability, the thoughts of closeing my Life under his Majesty's Displeasure give me great Pain, & that by any Error I may have forfeited your Lordship's regard, for with the greatest Truth, I am, My Lord, Your most obedient & faithfull servant

TO THE R^T HON^{BLE} LORDS COMM^{RS} FOR TRADE & PLANTATIONS.

New York, April 25, 1770.

MY LORDS,

By this Packett I transmit to your Lordship all the acts passed the last Session of Assembly, under the great Seal of the Province, except that for emitting Bills of Credit which I formerly sent, and of which I have received his Majesty's Disallowance. I have no other remark to make upon any of these Acts, but such as I have already submitted to my Lord Hillsborough in my Letter to him of Feby 21st, a Duplicate of which is inclosed with this to your Lordships, to which I beg leave to refer. The Minutes of Council are put into the Box with those Acts, and a printed Copy of the Journals of Assembly. I am

To — —

No. 11.

New York, 16th May, 1770.

MY LORD,

By the repeal of the Act for emitting £120,000 in Bills of Credit one thousand Pounds granted out of that Fund by the Assembly in their last Session for supplying his Majesty's Troops quartered in this Place with necessaries is become deficient. I have no hope given me that the Assembly will at this Time supply

that deficiency, & therefore I think it prudent to delay the calling of the Assembly till after the arrival of Lord Dunmore who must certainly have more influence than in my present situation I can have. The Grant of Money for the Troops is unpopular. We have two Parties violently in opposition to each other—One is carefull to preserve their popularity in order to secure their Seats in the Assembly, the other takes every method to gain popularity in hopes of a Dissolution on the arrival of a new Governor.

The Merchants in this Place and at Philadelphia have under consideration whether to import Goods from England or not. I am told that the majority both in this Place and at Philadelphia are for importing; & that they will come to a Determination in a few Days. The Party in opposition to the present administration join with the People of Boston to prevent Importation; and for that purpose stole late in the night last week a Procession of the Mob to expose a Boston Importer who happen'd to come to this Place. The Magistrates knew nothing of the Design till it was too late, otherwise I believe it would have been prevented. Tho' the Parties are much exasperated against each other, I hope the public peace will be preserved & the issue will be favorable to the Government.

TO HIS EXCELLENCY GENERAL GAGE.

New York, June 8th 1770.

SIR,

Since I inform'd you that by his Majesty's disallowance of the Act for emitting £120,000 in Bills of Credit, the £1000 out of that Fund for supplying the Troops quartered in this Province is lost, and the other £1000 emitted from the Treasury is expended so that nothing now remains for that service, I have advised with the Council and with the Speaker of the

Assembly & some other of the Members, and all of them agree that I can have no hope of the Assembly's supplying the deficiency. When my Lord Dunmore arrives he may have more influence than I can have in my present situation. I have the honour to be with great Respect Sir,

To ———

No. 12.

New York, July 7th, 1770.

MY LORD,

It gives me the greatest concern to learn from your Lordships Letter of the 14th of April No. 38. that I had incurred his Majesty's displeasure by giving my assent to the Bill disqualifying the Judges from setting in Assembly. However necessary it appeared to me for preserving a good agreement between the several Branches of the Legislature at a time when assiduous endeavours were making to produce discord, I should not have done it without a suspending Clause till his Majesty's Pleasure be known, had I not been confident that there would be no Session of Assembly till there had been Time sufficient to have his Majesty's pleasure known in this Place & that in the mean time it could produce no effect. For this purpose I transmitted an attested Copy of the Bill by the first opportunity before it could be engross'd as usual and the seal affixed. Had your Lordship known in what manner some of the Judges at several times have made use of their influence in Elections, not for his Majesty's Service, but with interested views, and afterwards in supporting a Party in the House, you would not wonder that the Assembly have it so much at heart to exclude them. I apprehend that unless the assembly be gratified in this Point it will be a perpetual Bone of Contention. In my humble Opinion the Judges can be of more real use to the Crown by being disinterested in all Party Disputes; without which they cannot

gain or preserve the general Esteem of the People, nor their Sentiments have that weight on the Minds of the People which otherwise a Judge of sufficient ability and known integrity must at all Times have.

I had not the least suspicion of any prejudice to his Majesty's service from the Meeting of Commissioners from the neighboring Colonies for regulating the Commerce with the Indians. The Trade with the Indians from this Province, Pennsylvania and Quebec is so much intermixed that no Plan can be form'd which can be effectual without their mutual consent. Col. Carleton embraced the proposal heartily and desired the Meeting to be at New York. Pennsylvania seems more cool. I have since that time received a letter from Col. Carleton signifying that the Commissioners from Quebec cannot attend in the Summer Months, tho' we chose that time from an Opinion that it would be most convenient for them, as the travelling in the Winter from Quebec is very difficult and often dangerous. I now suspect the Commissioners will not meet, or not agree on any one Plan, by reason of the different Interests of the Several Colonies. Sir William Johnson is likewise of this Opinion.

My Lord—I flatter myself that from the good Effects of the Measures which the Administration of Government in this Province have adopted, that they will receive his Majesty's Approbation and excuse what might otherwise have been justly blamed. The principal Inhabitants are all now heartily united in favor of Government with a resolution to suppress all riots & tumultuous Meetings, and I am of Opinion that if the same Measures be pursued this Province will be in tranquility and good order.

Soon after it was known that the Parliament had repealed the Duties on Paper, Glass, &c. the Merchants in this Place sent to Philadelphia that they might unitedly agree to a general importation from Gr. Britain of everything but Tea. They received a favourable answer at first, and their agreeing to the Proposal

was not doubted, but soon after a letter was received at Philadelphia from a Gentleman in England in whom the Quakers of that Place repose the greatest Confidence, adviseing them to persist in their Non Importation till every internal Taxation was taken off. This changed the Measures at Philadelphia; but the principal Inhabitants of this place continued resolved to show their gratitude for the Regard the Parliament has in removeing the Grievances they complain of. As there still remains a restless Faction who from popular Arguments, Clamours, & Invectives are endeavouring to excite Riots and opposition among the lower Class of People, a number of Gentlemen went round the Town to take the Sentiments of Individuals. I am informed that 1180, among whom are the principal Inhabitants declared for Importation, about 300 were neutral or unwilling to declare their Sentiments, & few of any distinction declared in opposition to it. I am inform'd likewise that the Merchants in this Place resolved to acquaint the Merchants of Boston and Philadelphia of their inclination to Import and to desire their concurrence.

The disorders in North America began while the Administration of Government was in my Hands, when no Governor in any of the Colonies had authority sufficient to suppress them. I am happy that now while the administration is again in my Hands, the People of this Province set an example to the other Colonies of returning to their Duty. All Men of Property are now so sensible of their Danger from Riots and Tumults that they will not rashly be induced to enter into Combinations which may promote Disorder for the future, but will endeavour to promote a due subordination to legal Authority.

From the different political and religious Principles of the Inhabitants, opposite Parties have at all Times, and will exist in this Province, which at different times have taken their denominations from some distinguished Person or Family who have appeared at

their Head; but you may be assured my Lord it is not in the power of any one Family to distress the Government while the administration is conducted with Prudence, which often requires a compliance with popular Humours.

I am so far advanced in years that it is most desirable to retire with the reputation I have gain'd, and if I can at the same time gain his Majesty's approbation I shall be very Happy, for I have had his Majesty's Service sincerely at Heart. If I shall be so happy I make no doubt of preserving your Lordships Regard, and am, with great Regard and Submission, My Lord,

TO THE R^T HON^{BLE} EARL OF HILLSBOROUGH, &c

No. 13.

MY LORD,

The Faction in opposition to Importation from G^t Britain having attempted last Week every Method in their Power, by Riot, Clamour and Threats to deter the Merchants of this Place from agreeing to Import without the concurrence of Philadelphia and Boston; the Merchants being desirous of knowing the sense of the Inhabitants with certainty in a matter of so great consequence after my last of the 7th Inst. desired that the Packett might be detained which was accordingly done. Persons of both sides the Question were appointed to go from House to House to collect the Sentiments of the Inhabitants. I am inform'd that a great Majority declared for Importing, and consequently I make no doubt the Merchants send their Orders for importing by this Packett. This is of so great Importance that I think it my duty to give your Lordship the earliest notice, as no doubt it must be agreeable to you, and give his Majesty a favourable impression of his Subjects in this Province—and at the same Time gives the greatest pleasure and satisfaction to, My Lord,

TO RICHARD BLAND AND PATRICK HENRY, ESQ^{RS} COM-
MISSIONERS FROM VIRGINIA.

Spring Hill July 11th 1770.

GENTLEMEN,

I did not receive an answer to my Letter of the 16th of April to Governor Pen till last Friday, when it was too late to prevent the trouble of your coming to this Place. Governor Carleton in his first Letter to me desired us to appoint the Time for the Commissioners to meet at this Place without saying that the summer Months would be inconvenient to the Commissioners from Quebec. In a Letter I received from him last Week he says the Gentlemen from that Province cannot attend at this Season. We imagined that travelling in the Winter from Quebec would be most inconvenient for them, and therefore chose the Time mentioned in my Letter to M^r Penn.

I delivered all the Letters and Papers which I have received on this subject to M^r Banyar, Secretary of this Province, who will communicate them to you. However we are disappointed in the general meeting of the Commissioners, your journey may not be altogether fruitless if you think proper to conferr with the Commissioners of this Province. You may form a Plan so happily as to be adopted by all the Colonies and then you will not regret the trouble you have undergone, for which otherwise I shall be very sorry. I shall be very glad to have the favour of your Company at this House whenever it may best suit you. I am with great Regard

TO THE R^t HON^{BLE} EARL OF HILLSBOROUGH

No. 14, New York, August 18th 1770.

MY LORD,

I have the honour of your Lordships commands of the 12th of June No. 39, with his Majesty's disal-

lowance of the Act declaring certain persons therein mentioned incapable of being members of the General Assembly of this Colony, & I have published his Majesty's disallowance of the said Act by proclamation as usual. I communicated to the Council the Act passed in the last Sessions of Parliament to enable the Governour Councill and Assembly of his Majesty's Colony to pass an Act of Assembly for creating and issuing upon loan paper bills of credit to a certain amount.

As the Colony of New York is distinguished by the favour of Parliament in this particular I make no doubt of its being received with that dutifull gratitude which may be justly expected. The other Act of Parliament relating to the Colonies and transmitted to me by Mr. Pownall were likewise communicated & all of them lodged in the Secrettaries office.

An Equestrian gilt Statue of the King made by the direction and purchased by this Colony came over in one of the last Ships from London.

On Thursday last it was opened to view, erected on its proper pedestal in a square near the fort, and fronting the principal Street of the City.

I was attended on this occasion by the Gentlemen of the Councill and members of the Assembly then in town. The Magestrats of the City, the Clergy of all denominations and very large number of the principal inhabitants. Our loyalty & firm attachment and affection to his Majesty's person was expressed by drinking the King's health & a long continuance of his Reigu, under a discharge of 32 pieces of cannon & band of musick playing at the same time from the Ramparts of the Fort. The General and the officers of the Army gave us the honor of their Company on the occasion. The whole Company walked in procession from the fort round the statue while the spectators expressed their Joy by loud acclamations the Procession having returned with me to the Fort & the Ceremony concluded with great cheerfullness and good humore.

I am well assured that the Merchants in this Place who appeared the most against the importation of British Manufactures have sent their orders for large quantities of Goods notwithstanding assertions they endeavoured to throw in the Publick Prints on those who promoted the Importation. And I am confident the example of New York will be followed by all the neighbouring Colonies notwithstanding of what appears in the American News Papers to the Contrary. It gives me the greatest pleasure that the people of New York under my administration are the most forward in Returning to their Duty.

Lord Dunmore is daily expected Here. I hope to deliver up the Government to him in Peace and Quietness, and with a very favourable disposition of a large majority of the People, especially of any Rank, to Government.

Nothing gives me more pleasure than the hope your Lordship allows me to have of your retaining some regard to, My Lord.

TO THE SAME.

No. 15.

New York, Aug^t 18, 1770.

In obedience to his Majestyes royal Order in Council of the 14 of April, 1769, I transmit to your Lordship a Grant, Release and Surrender to his Majesty of a Certain Territory and Islands therein mentioned, executed by William Cox and others to be Recorded in his Majestyes Court of Exchequer and a copy thereof together with a Letter of Attorney made use of on the occasion to be deposited in the office of his Majesty's Privy Council agreeable to the directions of the said Royal Order which has been fully executed in every Article. Except that M^r Cox has as yet received a

Grant in the Province of only 47000 acres of Land in part of the 100,000 Acres the Consideration which he is to receive for the surrender. I am, &c.

TO THE SAME.

No. 16.

New York, Sept. 8, 1770.

MY LORD,

I have the honour of your Commands of the 6th of July No 40. In my preceding I informed your Lordship that the Merchants in this Place had agreed to import notwithstanding that Boston & Philadelphia had refused to join with them. This has occasioned much altercation & mutual recrimination on their present & past Conduct so much that it must be difficult for them to unite in any Publick measures for the future. However it is the general opinion that all the Colonies must follow the example of New York in importing.

As the Earl of Dunmore has been duly expected for some time past the Assembly of this Province has been from time to time prorogued as it is not thought proper to call them together before his Lordships arival, and I have nothing material to lay before your Lordship. I have the honour to be with the greatest respect and Submission, My Lord.

TO THE SAME.

No. 17.

New York, Oct^r 5th 1770.

MY LORD,

As this most probably is the last opportunity by which I can have the honour of writing to your Lordship while the administration of Government is in my Hands I think it incumbent on me to give your Lordship some account of the Persons who are most attached to the

Government, and in Opposition to the Party who continue to declare openly against the authority of the Parliament of G. Britain.—In my preceding letters I informed your Lordship of the steps which had been taken to introduce a general Importation of Goods from G. Britain & of the opposition which had been made to it by that party who have in every other instance endeavoured to embarrass the measures of Government. It gave me particular satisfaction to find this Party entirely defeated last week in a violent struggle to turn out such of the elective Magistrates of the City as had distinguished themselves anyway in favour of Government. As the breaking of the non importation agreement in New York was a great point carried by the Party who favour'd Gov't. and must have a general good effect. I believe your Lordship will be pleased to know that the members of his Majesty's Council with a single exception and the Representatives of this City in general Assembly have zealously exerted themselves for a dissolution of the non-importation agreement which must have a general good effect on all the N. American Colonies.

No particular Person has been more distinguished than Mr. Banyar Deputy Secretary of the Province who took great pains and has been most assiduous to excite and preserve a proper spirit on others. He has been likewise very usefull to me in every part of my administration. I cannot avoid recommending him to your Lordship's particular attention in case any thing may offer in his favour. I have been conversant 50 years in the Public affairs of this Government and I can truly say that he has in his office exceeded all that have been in it during that time in ability and diligence he has faithfully discharged every confidence placed in him by Government and has so well established the opinion of his integrity and honour for upwards of twenty years past that every Governor in that time has placed a particular confidence in his advice, Sir Henry Moore only excepted.

Mr Ludlow whom I appointed one of the puisne Judges of the Supreme Court in the room of Mr. Smith deceased was very usefull. He has many friends among the Merchants and they were the foremost in declaring for importation—he has at all times been a friend to Government, is a man of Genius and application and I doubt not will distinguish himself in his Station.

Perhaps my Lord you may expect that I mention the persons who have opposed the salutary measures of Government. Tho' every man conversant in Publick affairs be well assured in his own mind who are the Leaders & Conductors of the opposition to Government yet as they do not appear publickly but only by their tools of inferior rank no legal evidence can be produced against them. I beg to be excused naming any person as no doubt your Lordship may be otherwise informed.

As now all kind of Rioting is greatly discouraged I hope to deliver up the administration in tranquility and in a good disposition to support Government and therefore I flatter myself that I shall retain some degree of your Lordships esteem and regard.

I have the honour to be with the greatest respect,
My Lord,

TO CAPTⁿ FOY, SECRETARY TO LORD DUNMORE.

Spring Hill, Dec^r 14, 1770.

SIR,

Immediately on the receipt of your Letter of the 13th Inst. I received my Fathers directions to transmit to you for Lord Dunmore which I now do by the first opportunity, the Inclosed Papers, containing the whole that my Father has received from the Ministry on the subject of the Judges Bill. The Report of the Board of Trade on that matter was not sent to him. Inclosed is likewise the Act of Parliament allowing a Paper Currency mentioned in one of Lord Hillsboroughs Letters. I am,

Memorandum of Papers inclosed with this Letter.

Order of Council 6th of June 1770 — Repeal of Judges Bill

Sect^y of States Letter (No. 38) Sep. 14, 1770.

Do (No. 39) June 12, 1770.

Do (No. 40) July 6, 1770.

TO THE SAME.

Spring Hill, Dec^r 24, 1770.

SIR,

The inclosed original copy of a Representation of the Board of Trade upon the Judges Bill, having been misplaced was not found with the Letters which I sent to you a few Days agoe; nor did we then recollect that my Father had received it. I accidentally fell upon it just now, and am directed by my Father to transmit it immediately to you for Lord Dunmore together with a Letter from the Secrettary of State to Sir Henry Moore in which he finds a paragraph taking notice of the Resolve of the Assembly to exclude the Judges of the Supreme Court from sitting in their House. I have now carefully examined my Fathers Papers, and am certain the Letters formerly sent to his Lordship with what is now enclosed, is the whole that my Father has had upon the subject in question. I am,

TO THE RIGHT HON^{BLE} EARL OF HILLSBOROUGH, ONE OF
HIS MAJESTY'S PRINCIPAL SECRETARIES OF STATE.

New York, Nov^r 10th 1770.

MY LORD,

The Earl of Dunmore arrived here on the 18th of last month. Everything in my Power was done to give

him a Reception suited to his Rank, and the dignity of the Commission he bears. I have reason to think his Lordship was well pleased on the occasion. The tranquillity, good humour and Order among the People, could not escape his notice. I was very happy in delivering up the Government in such a situation, and with the strongest persuasion that it would be in his Lordships power to support his administration with Ease and Dignity. I thought of nothing but to retire and spend my few remaining Days with satisfaction; flattering myself that a faithfull discharge of my duty in the administration of Government in times the most difficult had given me some claim to his Majestyes favour. It could not then, my Lord, but give me a very sensible uneasiness, when the Earl of Dunmore communicated to me the paragraph of a letter from your Lordship to him, dated the 16th of July last "signifying his majestyes pleasure that, a moiety of the perquisites and Emoluments of the Government of New York should be accounted for and paid to his Lordship from the date of his Commission to the time of his arival, which he accordingly Demanded by his Secretary." I am well assured it has not been paid to any Governor for fifty years past. My Connection with the public affairs of this Province with the Governors and Persons most immediately about them during that time enables me to assert with great Confidence that no such Demand has been made on any Lieut. Governour or Eldest Councillor from the Death of one to the *arival* of an other Governour, except in one instance. Mr. Van Dam held the administration of Government, as eldest Counsellor from the Death of Coll. Montgomerie on July 1st 1731, till the arrival of Coll. Cosby on the 1st of Augt. 1732, who in consequence of an Order he had obtained demanded one half of the Salary and Perquisites M^r Van Dam had received. M^r Van Dam refused to pay any part. A suit was Commenced against him, but dropt before a Determination, and M^r Van Dam retained the whole

profits. This Demand was thought to be an Act of mere Power, and gave general Disgust.

From that time to the Present, no such Demand has been made tho' several similar Cases have happened. Every eldest Councillor or Lieut. Governor, has received and retained the whole Profits of Government from the Death of one Governor to the *arival* of another—usage & Custom is thought to be the Rule.

General Monckton, tho' residing in this Place, did not demand, and I believe never expected any part of the emoluments which I received between the date of his commission and the publication of it; Neither did Sir Henry Moore from whose general Conduct I had no Reason to expect the least favor make such a Demand. These recent Instances my Lord, and the constant usage in this colony makes the Demand, now made on me, appear in the most Disagreeable light. If persisted in I shall be distinguished by a mark of his Majesty's Displeasure. To support the authority of Government has been the unvariable Rule of my Conduct. I have often suffered by it, from the violence of Parties and their opposite Principles—especially in supporting the authority of Parliament in the year 1765, when the Insults I received were the most public and alarming. I trust it will not be presuming too much to suppose the House of Commons particular attended to my case when they addressed his Majesty to Recompece the officers of the Crown in America who had suffered on that occasion. People in general throughout the Colonies expected that I should have been distinguished by some mark of his Majesty's favour, as I had been so remarkably distinguished by their Resentment. Providence, by the death of Sir Henry Moore, placed me in a situation of receiving a Compensation, had I been suffered to remain in the Administration, and to enjoy the usual Profits. Shall I my Lord, be distinguished by a demand of Part of those Profits which have been allowed to every other Commander in Chief?

The Instruction to the Governors of this Province relating to the Salary and Perquisites of Government has been understood in no other light here, than to entitle a Governor in Chief to half the emoluments, in case of his absence after having taken upon himself the administration. In this Case the L^t Governor, acting under the same Commission must divide the Profits with the Governor in Chief but after the appointment of a Governor, and before his arrival, and the Publication of his commission the Commander in Chief not acting under this, but the old commission must be entitled to the whole Emoluments. The Declaration of King William in 1697, referred to in the extract which I have of your Lordship's Letter to Lord Dunmore, I am humbly of opinion became ineffectual at his demise, and not being renewed by any of his successors, the Instruction to the Governors on this Head has been esteemed the only signification of the King's Pleasure. If his Majesty had been apprised that the Instruction had never operated in this Province in any other manner than as above mentioned, I am perswaded this signification of his Pleasure had not been made; nor from his great Justice and Goodness can I doubt his gracious Interposition and Protection that I may be permitted to enjoy in Tranquility, the only considerable advantage I have Reaped in a series of long and faithfull Services to his Majesty and his illustrious Family.

My Lord, while I am writing this, the Attorney General, with Lord Dunmore's permission, has informed my son that he has received his Lordship's Commands to file a Bill in Chancery (where the Governor is the sole Judge) against me for recovering a Moiety of the Emoluments. The suit is to be brought in his Majesty's Name, to give the Proceedings the Semblance of Justice: but as it is well known to be solely for Lord Dunmores benefit, and that he is in truth the Principal Party in the Suit, the Injustice and Oppression of making himself the Judge in such a

Case, must strike every man of Common Sense. The impression it must make on the minds of the People, may have a Dangerous Effect during his Lordships Administration. These things are too evident not to draw your Lordships immediate attention: and I hope his Majesty's wise and gracious interposition will prevent the bad Effects.

I intreat your Lordships favourable Intercession, and that you will be pleased to Lay this Representation of my Case before his Majesty.

TO ARTHUR MAIRS, ESQ^r, AT MESSR^s COX AND DRUMMOND—CRAIGS COURT, CHARING CROSS—LONDON.

New York, Nov^r 12th 1770.

SIR,

My Affairs rendering it necessary for me to appoint an Agent in London, your Character and the small Acquaintance I formerly had with you, induces me to apply to you to undertake my Business jointly with M^r Samuel Johnson (the Connecticut Agent) in case he Continues in London and will act for me to whom I now write for this purpose.

Inclosed is a Bill for £200 Sterling drawn on Mr. George Boss agent payable on 30 Days sight which you will please to present for acceptance and keep the Money in your Hands to be disposed of as I shall direct.

The Earl of Dunmore, Governor of this Province, since his Arival has demanded of me one half of All the Emoluments of Government received by me since the date of his Commission in January last. Every Lieut. Governor for fifty years past having been allowed to Retain the whole profits of Government from the *Death* of one Governor to the arival of another, I cannot quietly submit to this Demand: Especially I must be allowed by every Person ac-

quainted with the affairs of this Government to have some claim to his Majesty's particular favour. The demand made by Lord Dunmore would fix on me a mark of Displeasure which I cannot suppose to be intended by his Majesty. I have wrote to Lord Hillsborough by this Packet—the enclosed copy of my Letter to him will give you a more explicit account of the affair—But as Lord Dunmore has ordered the Attorney General here to file a Bill in Chancery (where his Lordship is the sole Judge) against me it is very probable the Suit must be carry'd Home by appeal. This makes it necessary for me to have the ablest Council retained in England—You will please immediately to apply to Mr Wedderburn and Mr Dunning and retain them both for me you will give them such Fee as is usual and inform them of the case in which I now expect to want their Assistance, and leave with them the inclosed Copies of Papers which will give them some Idea of the affair. It is not possible for me to write to them by this Packet. If any Thing should prevent these Gentlemen from undertaking for me you will please to advise with Mr Johnson and retain such other councill as he and you shall think most able and suitable.

I have desired Lord Hillsborough to lay my Case before his Majesty. I wish you to advise with my Councell how you or they can obtain information of the Success of my Letter to his Lordship, and that you will from time to time Communicate to me any Intelligence you may learn. It is very probable I shall by the next Packett transmitt a memorial to the King to be presented and supported by my Council in case my Letter has not the Effect I expect. You will please to write to me by the Packetts only and leave the postage to be paid here.

You may depend on my allowing you generously for your Services and you are to pay Mr Johnson whatever he demands.

Please let me know from Time to Time what dis-

bursements you make of the Money I now transmit to you.

List of Papers sent with this.

Copy of Lt. Gov^r Colden's Commission.
 93^d Article of Instruction to Sir H. Moore.
 Ext. of Ld. Hillsborough Letter to Sir H. Moore.
 Declaration of King William 1698.
 L^t Gov. Colden's Letter to Lord Hillsborough.

TO SAMUEL JOHNSON ESQ^r.

New York, November 12th 1770.

DEAR SIR,

A very unexpected Event here makes it necessary for me to have the assistance of a Friend in London. The friendship subsisting between your Father and me, and the Character it gives pleasure to hear you sustain leads me to pitch upon you for that Friend—Death having deprived me of my very worthy Friend Peter Collinson. I must therefore desire Sir that you will allow me to appoint you my joint Agent together with Mr. Arthur Mairs, formerly Sir Jeffery Amherst's Secrettary, now first Clerk to Mess^{rs} Cox and Drummond, Agents. The uncertainty I am under that you now be in London, and that you will be fixt there for any Time occasions my likewise imploying Mr. Mairs, to whome I transmit a Bill of Exchange for £200. St^d out of which I direct him to pay you whatever you demand for your agency, and I assure you Sir, I shall chearfully pay you generously. Now to the Business.

The Earl of Dunmore soon after he arrived here, demanded of me a Moiety of all the Perquisites and Emoluments of Government, received by me from the date of his Commission in January last, to the day he arrived here and communicated to me an abstract of a Letter from Lord Hillsborough to him, authorising

such Demand. His Lordship founds this Demand upon a Declaration made by King William at the Treasury in 1698. The usage in this Colony which I can trace back with certainty for 50 years has been that the Lieut Governor or Eldest Councillor having the Command in Chief, during the absence of a Governor in Chief, who had been in the Province and in the actual execution of his office, did retain only one half of the Profits of Government, the other moiety going to such Governor in Chief. But the Lieut. Governors or eldest Councillors upon whome Administration has devolved by the *death* of the Governor in Chief, have retained the whole profitts from the Death of the Governor in chief, till another arived & was Qualified here. This Usage is agreeable to the Commission & instruction to the Governors of this Province. By the Commission the L^t Governor or eldest Councillor is invested with all the power of the Commission in Case of the Death or absence of the Gov^r in chief. By the instruction a moiety of the Sallary & Perquisites is to be Paid to the Governor or eldest Councillor *in case of the absence* of the Governor in Chief, but this Limitation being not extended to the case of the *Death* of the Governor in chief plainly leaves the right to the whole Salary & Profits in the L^t Governor or eldest Councillor. Reason and equity confirm this usage.

The Declaration of King William in 1698 now trump'd up is clearly obsolete—it has not been renewed by any of his successors and is not referred to in the Instruction, which is the only Signification we have of his Majestys Pleasure on this Head, at the same time that Declaration was made, as well as when the Instruction was formed, which is continuous to the Present time without alteration, a Fund was raised here and given to the King for the support of Government out of which the King fixt & gave the Gov^r. his Salary. The Case for many years past has been Different. The Assembly grant the Salery to the Commander in Chief by name from year to year. His Ma-

jestyes particular Pleasure at this Time signified by Lord Hillsboroughs letter to Lord Dunmore, I am perswaded must have arisen from some misapprehension, for I am so conscious of having deserved his Majesty's favour both for my sufferings & services, that I cannot suppose he would with design fix on me such a mark of Displeasure as this would be—to deprive me of what every other L^t Governor has enjoyed in similar circumstances.

However Lord Dunmore thinks other ways, and has precipitately ordered the Attorney General to File a Bill in Chancery against me for recovering what he Demands. You know Sir the Governor here is the sole Judge in our Court of Chancery—His ordering a suit which is solely for his advantage to be brought for Judgment, before himself, is such an instance of Injustice and Oppression, as must shock and alarm every honest Man. I am determined to defend my Right and Property by every step which can be taken Here, but as no doubt his Lordships Judgment will go in favour of himself, I must seek Justice by Appeal.

I have directed M^r. Mairs to retain M^r. Wedderburn and M^r. Dunning Council for me and to give them a general Idea of the Case in which I want their assistance. You will please to advise and assist him immediately in this first part of the Business. I transmit several Papers to M^r Mairs to be laid before my Council which you will first peruse for your own information. Among them is the Copy of a Letter I now write to Lord Hillsborough, the success of which I very much wish to know as soon as possible. And beg you would endeavour to Learn what you can about It. It is needless to repeat to you what I write to M^r Mairs, a mutual communication of my Letters will give you both the fullest information. I am much hurried to get what I am now to send ready for the Packett. Be good enough to write to me by the Packetts, leaving the Postage to be paid here.

PROVINCE OF NEW YORK. }
 COURT OF CHANCERY. }

To His Excellency the Right Honorable John Earl of Dunmore, Captain General and Governor in Chief in and over the Province of New York, and the Territories depending thereon in America, Chancellor and Vice Admiral of the same.

IN CHANCERY.

Filed 15th Nov. 1770

SMITH l— *pro Rege.*

SHEWETH unto your Lordship, John Tabor Kempe Esquire, his Majesty's Attorney General of the Province of New York, for and on Behalf of his said Majesty, that in the year of our Lord one thousand six hundred and ninety eight his late Majesty King William the Third was pleased to declare his Pleasure at the Treasury in England, relating to the Salaries of L^t. Governors or other Commanders in chief in the Plantations upon occasion of the Death or absence of Governors in the Words following, viz. ; Whereas his Majesty has thought fit, That, for the better support of the Government in the several Plantations a sufficient allowance be set apart for such as shall be Lieutenant Governor or Commander in Chief residing there for the Time being upon the Death or during the absence of a Governor in chief in Order whereunto his Majesty is pleased to direct that one full Moiety of the Salary and of all Perquisites and Emoluments whatsoever which would otherwise become due, or are allotted unto the said Governor in chief be paid and satisfied unto such L^t. Governor or Commander in chief who

shall be so resident upon the Place for his better Maintenance and Support of the Dignity of the Government. His Majesty is further pleased to declare and appoint that the said half salary shall not upon any account whatsoever be diverted for the future, from such L^t. Gov^r. or commander in chief. And that the Gov^r. in chief appointed or to be appointed for any of his Majesty's Plantations do not pretend to receive or take to himself upon any account whatsoever, any part of the said half salary Perquisites or Emoluments due or accruing to the said L^t Gov^r. or commander in chief during the absence of such Governor in chief, or untill his arrival upon the Place, His Majesty likewise reserving to himself the disposal of the other Moiety of the said Salary from the date of the Commission of such Governor in chief untill his actual arrival within the Government, and hereof an entry is to be made in the Books of the Treasury, and in other offices where it may appertain, as in and by the said Entry or a copy thereof now ready to be produced to this honourable Court may appear. And the said Attorney General for and in behalf of our said present sovereign Lord the King, further sheweth unto your Lordship that in consequence of the Regulation and Establishment herein above recited, our said Lord the King and all his Progenitors Kings and Queens of England and of Great Britain have in all their Instructions since given to their Captain General and Governors in chief of this Province directed according to the form and effect of the Regulation of his said late Majesty King William the third herein above set forth, and that among the said Instructions so from time to time given to every Commander in chief there was and is an Instruction of the same import with that hereinafter more particularly set forth as one of the royal Instructions to Sir Henry Moore, Bar^t. late Governor of this Province. And the said Attorney General for and in behalf of our said present sovereign Lord the King further sheweth unto your Lordship that his said present Majesty by

his letters Pattent under the Great Seal of Great Britain bearing date the 19th day of July in the year of our Lord 1765 constituted and appointed Sir Henry Moore, Bar^t. deceased his Captain General and Governor in chief in and over this Province of New York, and the Territories thereon depending in America, in which said commission and all other Commissions to Governors of this Province heretofore given the Powers of Government in case of a Governor's death or absence are granted to such Person as shall be appointed to be Lieut Gov^r. and in case there be no L^t. Gov^r. to the eldest Councillor or Person first named in the royal instructions accompanying the same Commission, which Commissioners do severally refer to the Instructions and command such L^t Gov^r or Commander in chief to execute the several powers and directions granted or to be granted by the Commission and the Instructions therewith given or by such further Powers, Instructions and authorities, as should at any time after be granted or appointed under the signet, Sign manuel, or by Order in Privy Council as by the same commission or the record thereof in the Secretaries office or a copy thereof to the Court here offered may more fully appear and for the better Regulation and Direction of the said Sir Henry Moore in the Duties of his said office, his said Majesty was pleased to give unto him the said Sir Henry Moore certain Instructions under his Majesty's Signet and Royal Sign Manual bearing date the 27th day of November in the year of our Lord 1765, in which Instructions there is an article in which it is contained in substance as follows—And Whereas We are willing in the best manner to provide for the support of the Government of the said Province by setting apart a sufficient allowance to such as shall be our Governor, L^t Gov^r. commander in chief or President of our council residing for the time being within the same Our will & Pleasure therefore is when it shall happen that you shall be absent from New York one full moiety of the Salary and of all Perquisites and Emol-

uments whatsoever which would otherwise become due unto you, shall during the time of your absence be paid and satisfied unto such Governor, Lieut Governor, Commander in chief or President of the Council who shall be resident upon the Place for the Time being, which we do hereby order and allott unto him towards his maintenance, and for the better support of the Dignity of that our Government, as by the said Instructions under the signet and royal sign manual or the Record thereof or a copy thereof to the Court here offerd may more fully appear. And the said Attorney General in Behalf of his said present Majesty further sheweth unto your Lordship that afterwards viz^t. on or about the 13th day of November in said year of our Lord 1765 the said Sir Henry Moore arrived in this Province and publicly notified his said Commission and being thereby legally invested Governor in chief of this Province of New York took upon himself the exercise of his said office and Place. By virtue whereof and of all and singular other the Premises the said Sir Henry Moore among other Things became liable and subject to all and every the Articles and Things in the said Establishment and Regulations contained and expressed. And the said Attorney General in behalf of his said present Majesty further sheweth unto your Lordship that the said Sir Henry Moore departed this Life on or about the 11th day of September in the year of our Lord 1769, and thereby the command and government of this Province devolved on the Honorable Cadwallader Colden, Esq. who had before that time been appointed his Majesty's Lieut. Gov^r of this Province, who thereupon received the original Instructions given by his said present Majesty under his Signet and royal Sign Manual to the said Sir Henry Moore and well knowing the said Instructions Regulation and Establishment took upon himself the administration of Government and thereby also became subject & liable to all and every the Articles and Things in the said Regulations and Establishment contained and Express'd

and intituled to all and singular the Benefits and Advantages thereby provided and established for the Lieut. Gov^r and commander in chief of this Province that is to say to one half of the Salary Perquisites and Emoluments whatsoever accruing by or from the administration of Government in this Province untill another Governor in chief of the said Province should actually arrive therein, and the other Moiety thereof from the date of the Commission of such Governor in chief untill his actual arrival within this Government of Right belonged to our said Lord the King to be disposed of according to his Royal Will and Pleasure, the same nevertheless to be received by the said Lieut. Governor for the use of his said Majesty and to be accounted for by the said Lieut Gov^r. as his Majesty's Bailiff Receiver or Trustee—And the said Attorney Genl. in Behalf of our said Lord the King further sheweth unto your Lordship that from the 2nd day of January last which is the date of your Lordships Commission as Governor in Chief of this Province untill the 18th day of October now last past when your Lordship actually arrived within this Province the said Cadwallader Colden, Esq. continued as Lt. Gov^r as aforesaid to Exercise the administration of the Government of this Province and by virtue thereof during the whole Time last above mentioned hath received for the use of his said present Majesty and himself in the proportions above mentioned the Sallary allotted for the exercise of the administration of the Government between the days last above mentioned and divers perquisites and emoluments also accruing and arising thereby between the days last above mentioned to a very considerable amount and hath taken Securities for the payment of other Parts of such Perquisites and Emoluments to him and with part of the Money so received hath purchased divers large Tracts of Land in the Name of himself and others, and in lieu of other Parts of the said Perquisites and Emoluments accruing as aforesaid between the days last mentioned, hath taken in the name of himself or others

Conveyances for divers other large Tracts of Land and further for divers considerations hath neglected to receive and hath remitted to divers Persons other Parts of the said Perquisites and Emoluments accruing and arising as aforesaid between the days last above mentioned to a very considerable amount. For one full Moiety of all and singular which said Salary Emoluments & Perquisites whatsoever so by him received and secured and neglected to be received or remitted and of all and singular the Lands so Purchased and taken in lieu of any the said Sallary Perquisites and Emoluments the said Cadwallader Colden ought by law to account and satisfy to our said Lord the King, or to such Person as his said Majesty hath or shall authorize to receive the same for the use of his said Majesty. And the said Attorney General for and in behalf of his said Majesty doth further charge that his said Majesty hath signified his royal Will and Pleasure that the same be accounted for and paid to your Lordship, and that the said Cadwallader Colden Esq. hath had due notice thereof. But now so it is may it please your Lordship that the said Cadwallader Colden combining and confederating with divers Persons to the said Attorney General unknown, whose names when discovered he prays may be inserted in this Bill with apt words to charge them how to defeat & deprive his said present Majesty in the Premises pretends that all & singular the Salary Perquisites and Emoluments and other the Premises aforesaid are justly and bona fide due and of Right belonging to him the said Cadwallader Colden & that he is in no wise accountable for the same, and actually hath refused and still doth refuse to render any account thereof to any Person whatsoever, altho' he was thereunto particularly required by a Demand made in due form of law on the 26th day of Oct^r. now last past, and hath declared that he will keep all and every part thereof to his own use *All which Actings and Doings* of the said Confederates are contrary to all Equity and good Conscience and to the grievous injury of his said Majesty. In considera-

tion whereof and for as much as matters of this nature are most properly cognizable and relievable in a Court of Equity before your Lordship and in regard the said Cadwallader Colden Esq. is not compellable to account for the Income & Profits of the said Place as Trustee for the Crown, without the aid and assistance of a Court of Equity, and it being utterly unknown untill he shall upon oath discover the same what sums & Profits have come to his Hands as Salary, Perquisites and Emoluments of Governm^t. or for the support of the same, or how or in what manner he has secured the same To the End that the said Cadwallader Colden, Esq. and his Confederates may true and perfect answer make to all and singular the Premises hereinbefore set forth as fully as if the same were herein again repeated and particularly interrogated and more especially that the said Cadwallader Colden, Esq. may upon his corporal Oath set forth & discover whether any & what hath been received by him as L^t Gov^r & Commander in Chief of this Province for Salary since the Death of the said Sir Henry Moore & how much of such Salary remains yet unpaid to him, and what proportion of such Salary and to what amount as well what is paid as remains yet unpaid became due & payable between the said date of your Lordships Commission as Governor in Chief of this Province & the said date of your Lordship's arrival in this Province. And also all and every the sum and sums of money which have arose or accrued in any manner howsoever as Perquisites or Emoluments arising from the Exercise of the office of Comhander in Chief of this Province between the Days last above mentioned and how much thereof he hath actually received & how much thereof remains to be receiv'd and from whom and how much from each Person respectively : and for how much thereof not actually received security hath been taken & to whom such monies are in & by such respective securities respectively made payable and what securities have respectively been taken for each such sum by Bond Note or other Personal Security,

and who are bound or in any wise answerable for the same or any and what part thereof respectively. And what real Securities have been taken for all or any such sum and sums of money respectively, and what Lands or other things have been taken in Lieu of any Sum or Sums of money accruing as aforesaid between the Times last above mentioned, and for what sum or sums of money such Lands or other Things have respectively been taken, and also what other Lands have been Purchased by him or any Person and whom for himself or others and for whom with any and how much of any such sum and sums of money and how much was paid or agreed to be paid for such Lands or other Things respectively. And that the said L^d. Gov^r. may be compelled to render a full plain and particular account of the said Salary Perquisites and Emoluments for the Time aforesaid and of every article thereof And that his Majesty may really and truly be answered and paid for and satisfied of one full Moiety of all and singular the said Salary Perquisites and Emoluments whatsoever accruing as aforesaid between the Times aforesaid May it please your Lordship to grant unto the said Attorney General his Majesty's Writ of Subpœna to be directed to the said Cadwallader Colden, Esq. requiring and commanding him at a certain Day and under a certain Pain to be limited to be and personally appear before your Lordship in this honourable Court there to answer the Premises and to abide such further Order and Decree concerning the Premises as to your Lordship shall seem meet. And your Orator shall ever pray, &c.

J. S. KEMPE, *Attorney General*.

W^m. SMITH *of Counsel for the Crown*.

The foregoing is a true Copy of the Original examined by me.

W^m SMITH *in Cancell*.

Fol. 32 @ 9^d £1. 4. 0

Certificate . 2. 0

—————£1. 6. 0.

THE ATTORNEY GENERAL	}	IN CHANCERY.
PRO REGE		
<i>agt</i>		
CADWALLADER COLDEN, ESQ.		

By special Order of the Chancellor, instead of an Eight Day Rule, Day is given to the Defendant to file his Answer to the Bill of Complaint in this cause on or before the eleventh day of Dec^r next.

W^m SMITH, *in Cancellia pro Rege*.
New York 23^d Nov^r 1770.

TO JAMES DUANE, ESQ.

Spring Hill Nov^r 26th 1770.

DEAR SIR,

I now return the Bill in Chancery with our Remarks upon it. Had the suit been brought in any Court where there is an appearance of an indifferent or equitable Judge, I should gladly have gone at once on the Merits of the Cause. I have a right to the whole Salary by an Act of the whole Legislature of this Province, and the Perquisites are the voluntary Donations of Individuals for Services done them. Who can have a Right to them but the Person who does the Service? In the British Constitution the King cannot at his Pleasure dispose of the Property of any of his Subjects. His pleasure in such Case can only be signified by Courts of Justice in Common Law. But the bringing this Suit in Chancery as it is at present constituted, shows a determined resolution without shame or remorse to have a Decree in their favour, & therefore I must endeavour to remove the Cause before some other Tribunal where I may expect Justice. For this purpose I suppose you must Plead and Demur:

and I must beg of you to form your Plea & Demurrer so clearly and on such evident grounds that there may be no room to bring the Merits before this Court, & that you carefully avoid giving any handle for this purpose, for I expect that every advantage will be taken which Chicanery can give.

You will find in Blackstone Vol. 3^d p. 55 that an Appeal lies from any interlocutory Decree in Chancery, & where the Plea is to the Jurisdiction of the Court it would be absurd to refuse it. The Instructions are silent as to Appeals from a Court of Equity, Courts of Common Law being only mentioned in the Instructions and for that reason perhaps an appeal may be refused—No man can say what will not be done. Suppose this be the case, I may Petition the House of Lords and obtain their order to stop Proceedings here and to have all the Proceedings transmitted to them for their final order, but I must submit to my Councill in England which may be most proper to Petition the King in Councill or the House of Lords. It may be of use to have the Plea & Demurrer brought to Issue so soon that I may in the present Session of Parliament obtain the Order of the House of Lords for staying of Proceedings. For if the Court over Rule the Plea and Demurrer and resolve to proceed, I am resolved to stand out every Process. I am resolved on this, not only on my own account, but for the benefit of the People of the Province: for if a Court of Equity can retain this Cause, I know not what Cause may not be retain'd, & every Man's Property in the Province be decided by the Governor in Chancery.

This case appears to me so clear that I think I may safely trust to you alone; but if you think it necessary to have assistance I am very willing to fee any other Gentleman of the Law you shall desire. On this point I cannot forbear observing how willing some are to assist in an Act of mere Power, when others are not willing to assist on the other side, tho' they acknowledge

the justice of the Cause to be with me, & they acknowledge that their fears prevent them. If such should be the general Case we are fitted for arbitrary Power & Slavery.

I shall only add that as the Bill sets forth that the half salary & Perquisites are to be paid to the Earl of Dunmore, I must insist that one Cause of Demurrer be that he is interested in the heart of the Suit and cannot without contradiction to the first principles of Justice sit as a Judge. I am told that he intends to call M^r Horsmanden to sit, but in that case the Decree must be by the Chancellor. You know what I cannot avoid to think of M^r Horsmanden. I flatter myself that the Methods to be taken in this Suit will raise the indignation & abhorrence of all honest Men in this Province who know Men and Things.

I cannot finish this without makeing hearty acknowledgments & thanks for your undertaking my cause so willingly, and that I am with the greatest affection and esteem, Dear Sir,

What further is necessary to be done by us, please to let us know.

TO THE RIGHT HON^{BLE} EARL OF HILLSBOROUGH.

New York, December 6th 1770.

MY LORD,

In my preceeding of the 10th of last month I informed your Lordship that Lord Dunmore had ordered the King's Attorney to file a Bill in Chancery for recovering from me half the Salary and half the Perquisites from the date of his Commission to the day of his arrival. In that Letter I insisted principally on the favour which I presumed myself intituled to from my faithfull Services to the Crown for upwards of fifty years past; often in most difficult Times, from which I

suffered greatly in my fortune. I may now add that the satisfaction which the People had in my administration since the death of Sir Henry Moore, contributed greatly to the resolution which the Merchants took of importing Brittish goods. After Lord Dunmore's arrival the Principal and most respected Merchants to the number of 56, when they knew that I intended to retire to the country came in a Body and thanked me for my Administration. By the influence of these Merchants, the resolution to import from Great Britain was carried. The Ministers Church Wardens, Vestry & other principal members of the Church of England in the City did the like; and since I left the Town I have been informed that other distinguished Bodies design'd to have made me the like compliments, had I not left the place sooner than was expected. My Lord Dunmore's demand I hope will excuse my mentioning these things to shew how much my administration has contributed to his Majesty's Service by restoring tranquility, after the Province had been for some years in a most disorderly state, & to the restoring Commerce between Great Britain and the Colonies: for all the other Colonies in North America must follow the example of New York.

The Attorney General by my Lord Dunmores direction, has in the Kings name filed a Bill in Chancery where Lord Dunmore is the sole judge, and who is to receive the Benefit of the Suit, should the King recover, and Process has issued against me—it is therefore incumbent on me to shew to your Lordship by what right I claim the whole Salary and Perquisites.

Indeed M^r Smith, whose advice Lord Dunmore follows, must be convinced of my Right, otherwise he never would have advised Lord Dunmore to bring the Suit in Chancery where his Lordship is the sole Judge. He must think my Title such, that Lord Dunmore could not recover in any other Court of Justice, or before a disinterested judge. If we may judge from M^r Smith's past conduct, he takes a Pleasure in throwing

the administration into disorder. The only pretence for bringing this suit in Equity, is to discover the Perquisites which I have received, whereas every farthing I could receive will appear in the Publick offices ; and I never received any private fee or reward for any service of any kind. No other pretence or Title to Equity is made use of in the Bill, my Lord. The whole Sallary is given to me by the authority of the Legislature of this Province. Any Perquisites which I received was a voluntary Donation for services to Individuals, and I think no man can have a right to any part of them, who performs no part of the Services. In King William's Declaration relating to the Sallary's of the Governors of the Colonies, which is made the foundation of this suit, only half the Sallary, in Case of a Governor in Chief's Death, is reserved without any Reservation of the Perquisites. At that Time the Assemblies granted a Sum in gross for the support of Government, & the King granted a certain sum out of that to the Governor. But since Coll. Cosby made a similar Demand, to this now made on me, the General Assembly have granted a support of Government only from year to year, & have fixed the Salaries to all the officers annually by act of the Legislature.

No Instruction has been given since that Time, by which the King reserves any Part of the Salary, or Perquisites or Emoluments, from the Death of one Governor in Chief, to the arival of another. Many instances can be given when the administration of Government has been in the Hands of the L^t Governor, or Commander in Chief, from the Death of one Governor in Chief to the Arival of another, and no instance can be given at Least in Sixty years preceeding when the L^t Governor or Commander in Chief did not receive & retain for his own use the whole salary & the whole Perquisites.

Lord Dunmore having ordered this cause to be brought before himself in Chancery, no man can doubt of his resolution to give a Decree in his own favour.

I must therefore plead and Demur for which I have the greatest cause, and as I expect that he will over Rule my Plea & Demurrer, I am resolved to appeal to the King for Justice and have ordered Council to be retained in England for that purpose.

You may Imagine My Lord what impression these Proceedings make on the minds of the People, & particularly in my Case, in prejudice to his Majesty's Service; & you may be assured the Impression is universal in all ranks of the People. I have presumed to write thus freely to your Lordship that his Majesty may interpose his authority by ordering the Bill in Chancery to be dismissed. This I humbly pray not only in Justice to myself, but likewise to remove the prejudices which the People otherwise may entertain of his Majesty's Ministers, & which may be prejudicial to his Majesty's Service.

If Lord Dunmore thinks proper he may sue at Common Law.

As I am conscious of my dutifull endeavours in his Majesty's service in a series of many years, I flatter myself that your Lordship will think this affair deserves your attention, and that you will please to make a full representation of my humble Prayer to the King that his Majesty may please to order this Bill in Chancery to be dismissed. If the Suit be suffered to go on, it must be attended with distressing Expence to me, tho' it should end in my favour, and Lord Dunmore for whose use it is carried on by his using the Kings name, is freed from all Expence.

The consideration of what I now write is humbly submitted to your Lordships honour & Justice, in which great confidence is placed by—

TO ARTHUR MAIRS, ESQ.

SIR,

By the last packet I transmitted to you a Bill of Excha^o on M^r Ross for £200 stg. and now enclose the second Bill. I desired that you would in conjunction with Mr. Samuel Johnston, agent for the Colony of Connecticut, in case he undertook to act for me, retain Mr. Wedderburn & M^r Dunning as Council for me or in case they should decline, any other Council of Distinction as you should think proper. At the same time I transmitted Copies of several papers which might shew the foundation of a Suit which Lord Dunmore has ordered to be commenced against me in Chancery; upon which suit it is that I desire you to retain Council for me. The Attorney General the 15th of last Month filed a Bill in the Kings name in Chancery, for half the Salary & half the Perquisites of Govern^t which I have received between the death of Sir Henry Moore & the Arrival of Lord Dunmore in this Place, which as the Bill sets forth his Majesty has ordered to be accounted for and paid to his Lordship, yet the suit is brought in Chancery, where his Lordship is the sole Judge. A Court of Exchequer at the same time existing in this Province, of which the Judges of the Supreme Court are Judges. For your farther information, and the information of my Council, I enclose a copy of a Letter which I now write to the Earl of Hillsborough on that subject. The rough draft of a Demurrer & Answer to the Bill is already made by M^r Duane my Lawyer here. But as I cannot expect that a Judge who commands a suit to be brought before himself will ever give Judgment against himself, I expect the Demurrer will be over Ruled. I must appeal to the King on this Decree. The Gentlemen of the Law here are but little acquainted with the Practice of Appeals—Perhaps there never was an Appeal from a Decree of the Court of Chancery in this Prov-

ince; yet it cannot be doubted that an Appeal does ly to the King in Parliament, or in Privy Council. The Gentlemen whome you have employed as my Council will please by the Earliest opportunity possible, to give me Directions in what manner the Appeal ought to be made.

You will please likewise to inform them that, as they will see by the Copies of my Letters to Lord Hillsborough, that I pray his Majesty to Order the Bill to be dismissed. I desire they would immediately make such application as they think most proper to support my Prayer, and to obtain his Majesty's pleasure thereupon. This may save me an immense deal of trouble, vexation and expence, which at my great age of Life is most Disagreeable to me. Another consideration makes the greatest Despatch very necessary, for from the arbitrary method in which this Prosecution is commenced against me, no man can pretend to say that Lord Dunmore will not refuse to admit my appeal from his Decree upon the Demurrer; should he do so, I know of no method in which I can possibly defend my Estate. My present resolutions are should that be the case, to stand out all farther Process and depend solely on the Justice which I hope to obtain in England.

You will please to communicate this to Mr Johnson to whom I present my affectionate Compliments. I write to you only because I still am not certain that he will be in London, and I beg you would lose no time in submitting what I now write to my Council. By the first Opportunity after my answer & demurrer is fyled, I will send you a copy of it and the Bill.

PROVINCE OF NEW YORK }
 COURT OF CHANCERY. }

The Demurrer of Cadwallader Colden Esq, Lieut. Governor of the Province of New York to part and the Answer of the said Cadwallader Colden, Esq, to the residue of the Bill of Complaint of John Tabor Kempe Esq, his Majesty's Attorney General of the Province of New York, in behalf of our now Lord the King, Complainant.

THIS Defendant by Protestation not confessing or acknowledging all or any of the said Matters & Things in the said Bill of Complaint to be true in such sort and manner as the same are therein expressed and set forth, As to so much of the said Bill as seeks a Discovery or Account from or relief against this Defendant, with respect to the Perquisites and Emoluments received by the Defendant as Lieut. Governor of the said Province of New York & for the exercise of the Administration of the said Government, from the Time of the Death of Sir Henry Moore, Bart, late Governor in Chief of the said Province, untill the arrival of his Lordship the present Gov^r in Chief (that is to say) between the 11th day of Sept^r in the year of our Lord 1769, in the Bill mentioned, and the 18th day of Oct^r now last past, in the said Bill also specified; and as to so much of the said Bill, as seeks a discovery or account from, or relief against this Defendant concerning the Salary received by the Defendant as L^t Gov^r aforesaid, and for the Exercise of the said Administration, from the Time of the Death of the said Sir Henry

Moore to the date of the Commission of his said Lordship, the present Gov^r in chief (that is to say) between the said 11th day of Sept^r in the said year of our Lord 1769, and the second day of January last past, in the Bill also specified, this Defendant doth Demur in Law, and for Cause of Demurrer sayth That it appears of the Complainant's own shewing, that our said now Lord the King hath no Title or Equity whereon such Decree, as is pray'd for by the same Bill can be granted or made against this Defendant, respecting the same First because his late Majesty King William the 3^d in the Bill mentioned could not by Law in virtue of the Declaration therein set forth, appropriate or reserve for the use or disposal of his royal successors or either of them the salary, which after his Demise, might be granted to, or the Perquisites or Emoluments which might thereafter be acquired or received by the Lt Gov^r or Commanders in chief, for the exercise of the Administration of the said Government on the Death of a Governor in Chief thereof Because Secondly the efficacy of the said Declaration, if any it ever had, altogether ceased and expired with the Life of the said late King, nor ever since hath been, nor now is, of any force or validity. Because Thirdly according to the Complainant's own shewing it appears that the Regulation directed in and by the said pretended Declaration of the said late King from the Time of his Demise hitherto, hath not been, nor now is, in any wise adopted, received, extended enforced or continued as Rule or establishment for the Support of the L^t Gov^r, Commander in Chief or President of the Council of the said Province, in case of the Death of the Gov^r in chief thereof or for the disposal or application of the Salary or Perquisites or Emoluments, which from Time to Time or any Time, have arisen or accrued or might arise or accrue, on such a Contingency, of a Moiety, or of any part thereof Because 4^{thly} It appears of the Complainants own shewing, that the royal Instructions on that subject, from Time to Time given to the Gov^r in Chief of the

said Province since the said Declaration of the said late King, and referred to in and by the said Bill, and the royal Instruction in the same Bill mentioned to have been given to the said Sir Henry Moore, and therein particularly set forth, provide and direct, that when it should happen that the respective Gov^{rs} in Chief, to whom such Instructions were respectively given should be absent from N. Y. one full Moiety of the Salary Perquisites & Emoluments, which would otherwise become due to such Gov^{rs} in Chief respectively should during the Time of their respective absence, be paid unto such Gov^r L^t Gov^r Commander in Chief or President of the Council, who should be resident upon the Place for the Time being, for their better support, and the Dignity of the said Gov^t. Therefore of the Complainants own shewing it appears that no Regulation or Establishment, is in any wise made or provided by the said Instruction to the said Sir Henry Moore, respecting the Salary, Perquisites or Emoluments which have accrued or arisen in the exercise of the administration aforesaid by this Defend^t upon or since the death of the said Sir Henry Moore and for which this Def^t is now call'd in question, but of such only as might have become due to the said Sir H. Moore in his Life Time, for the Exercise of the Administration aforesaid, during his absence from N. Y. And in like manner it appears that no Regulation or Establishment from the Time of the pretended Declaration of the said late King hath hitherto, in any wise been made, or provided, by any or either of the Instructions to any or either of the former Gov^{rs} in chief in the said Bill referred to, respecting the Salary Perquisites and Emoluments which have accrued, or arisen upon or after the Death of any or either such former Governors in Chief respectively, But of such only, as might have become due, to such former Gov^{rs} in Chief respectively, during their respective Life Time, for the exercise of the administration of the said Gov^t in their respective absence from N. Y. Fifthly because

according to the Complainant's own shewing neither our said Lord the King, in his said Commission or Instructions to the said Sir H. Moore in the Bill mentioned, nor in any other act or Declaration of his royal Will & Pleasure, to him signified, nor our same Lord the King nor his Progenitors, Kings or Queens of England or Great Britain, in either of their royal Instructions in the same Bill mentioned to any former Gov^r in Chief of the said Province Have nor Hath either of them from the time of the pretended Declaration of the said late King William the 3^d hitherto reserved or appropriated to himself or themselves, or to either of them respectively the Moiety or any part of the Salary Perquisites or Emoluments which have arisen or accrued, or might arise or accrue from the administration of the Gov^t of said Province by this Deft or any former L^t Gov^r or Comm^r in chief or President of the Council, on the Death of the said Sir Henry Moore, or any former Gov^r in chief of the said Province; or the Disposal or Application thereof, or of any part thereof in any wise howsoever. And for further Cause of Demurrer this Deft sheweth, and is advised, that there is not any Matter or Thing set forth in the said Bill, whereby it doth or can appear that our said now Lord the King hath disposed of or appropriated the Moiety of the Salary Perquisites & Emoluments in Question in this Suit, if any Right or Title thereto his Majesty Hath, or whereby his Lordship the present Gov^r in Chief, or any other Person whomsoever is, or can be authorised to receive or sue for the same, or to acquit or discharge this Deft therefrom, was he therewith chargeable, Wherefore if this Deft. was so chargeable he may be vex'd, drawn into Question and controversy for the same matter by such Person as may be hereafter lawfully authorized by his Majesty for that purpose. And this Deft for further cause of Demurrer sheweth that by the said Bill he this Deft is required to account for one Moiety of the Salary Perquisites or Emoluments which he hath received or secured in the

Exercise of the administration of the said Gov^t from the Time of the Death of the said Sir Henry Moore until the day of the arrival of his said Lordship within this Gov^t when according to the Complainants own showing, no Title Claim or Interest is pretended, or set up, in the said Bill for his Majesty, to any Salary Perquisite or Emolument, which have been received by, or accrued to this Deft between the Time of the Death of the said Sir Henry Moore, and the date of the Commission of his said Lordship, the present Gov^r in Chief, But to the Moiety only of such as may have been received by or accrued to this Deft. from the date of his said Lordship's Commission untill his arrival within the Gov^t as aforesaid. And for further Cause of Demurrer this Deft sheweth that by the said Bill he is call'd to account for the Moiety of the Perquisites & Emoluments, as well as of the Salary accrued to or received or secured by him from the Time of the Death of the said Sir Henry Moore untill the day of the arrival of his said Lordship within this Gov^t as aforesaid, when according to the Complainant's own shewing, his said late Majesty King William the 3d by the said pretended Declaration which is alledged in the said Bill to be the Regulation and Establishment in the Premises, did in fact reserve no more than the disposal of one half of the Salary from the date of the Commission of such Gov^r in Chief to the Time of his arrival at the Place as aforesaid. And for further Cause of Demurrer this Deft sheweth that he is required by the said Bill to discover and set forth how much of the Salary, Perquisites and Emoluments for which he is called to account, he hath taken & received Security for, whether real or personal, what Lands or other Things he hath taken in lieu of any sum of money arising therefrom, and what other Lands have been purchased by him or any Person, & whom, for himself or others, and for whom, with any and how much of any Part of the said Salary, Perquisites & Emoluments, and how much was agreed to be paid

for such Lands or other Things respectively. Whereas according to the Comp^{rs} own shewing this Deft. is required, and such is the Scope of the Bill to pay & satisfy one full Moiety of the Salary Perquisites & Emoluments accruing between the Times in the said Bill mentioned, and not to assign such securities if taken, or to convey such Lands if Purchased or any part thereof for the use of his Majesty. And this Deft is therefore advised that he ought not to be call'd in Question touching such securities or Purchases or compelled to render any account concerning the same, this D^t conceiving a discovery thereof to be altogether foreign and impertinent & sought after with no other view than to vex and injure this D^t by representing him as a fraudulent Bankrupt. Wherefore and for divers other Errors & Imperfections appearing in the s^d Bill this D^t. doth Demurr to such part hereof as afores^d and humbly Prays the Judgment of this honourable Court whether he shall be compelled to make any answer to such part of the said Bill as is so demurred unto. And as to the residue of the said Bill this D^t. saveing and reserving to himself all benefit and advantage of Exception to the Imperfections & Deficiencies thereof *Doth Answer* and say That for any Thing he knows to the contrary, it may be true that his late Majesty King William the 3rd might at the time in the Bill mentioned, have caused a Declaration to be made at the Treasury of England, relating to the Salaries of L^t Gov^{rs} Commanders in Chief and Presidents of the Council in the Plantations upon occasion of the death or absence of the Gov. in Chief; but whether the same is truly set forth by the Compl^t this Deft. doth not know nor admit, having never seen the original entry at the S^d Treasury, or any Certified or authenticated Copy thereof, and therefore leaves the Compl^t to the production of prooffe thereof, as the Law directs: but that such Declaration became an Establishment, or that in consequence thereof our now Lord the King, and his royal Progenitors, Kings &

Queens of England have in all or any of their Instructions since given to their Gov^r in Chief of the said Province directed according to the Form & Effect of the said supposed Regulation of his s^d late Majesty King William the 3^d as the Comp^t in the sd Bill alledges, this Def^t doth deny and this Dft farther Answering doth admit that it may be true that among the Instructions from Time to Time given to the Gov^r in Chief, there was an Instruction of the same import with that in the Bill mentioned as one of the royal Instructions to the s^d Sir Henry Moore, Bart, late Gov^r in chief of this Province—And this Deft. further Answering doth admit it to be true that his present Majesty, by his Letters Pattent under the great Seal of Great Britain, bearing date as in the Bill mentioned, did constitute and appoint the s^d Sir Henry Moore, deceased, to be his Capt Genl & Gov^r in Chief of the s^d Province and that in the same Commission, and all other Commissions to Gov^r in chief of this Province heretofore given, the Powers of Government in case of a Governors Death or absence are granted to such Person as shall be appointed L^t Gov^r. And in case there be no L^t Gov^r to the eldest Councillor or Person first named in the royal Instructions accompanying the same Commission. And that the same Commissions do severally referr to the Instructions and Command such L^t Gov^r or Commander in chief to execute the several powers and directions granted or to be granted by the s^d Commission and the Instructions therewith given, or by such further powers, Instructions and authorities as should at any time after be granted or appointed under his Majesty's Signet or royal Sign Manual, or by Order in Privy Council. And this Dft. further Answering doth admit that for the better regulation and direction of the s^d Sir Henry Moore in the duties of his s^d office his Majesty was pleased to give unto him the s^d Sir Henry Moore, certain Instructions under his Majesty's Signet and royal sign Manual bearing date as in the Bill for that purpose mentioned, in which Instructions this

Dft. doth admit there is an article in substance as in the Bill for that purpose set forth. And this Dft. further answering doth admit that at or about the Time in the Bill for that purpose specified the s^d Sir H. Moore arrived in this Province, and publicly notified his s^d Commission, and that he thereby became legally invested Governor in Chief of this Province, and took upon himself the Exercise of the s^d office and Place, as in the Bill is mentioned. But that by virtue thereof or of any Thing in the Bill alledged the s^d Sir H. M. became subject and liable to the Regulation & establishment pretended in the said Bill to be directed by the s^d Declaration of his late Majesty King William the 3rd, as the Compl^t in the sd. Bill suggests, this Deft doth not believe or admit, but for the reasons hereafter assigned denys. And this Deft. further answering doth admit that the s^d Sir H. M. departed this Life at or about the same time in the said Bill for that purpose mentioned, and that thereby the Gov^t & Command of this Province devolved on this Deft. and this Deft. saith that before that time (to wit) on or about the 14th day of April in the year of our Lord 1761, his present most gracious Majesty King George the 3^d by his royal Commission under his royal sign Manual & Signet bearing date the day and year last aforesaid did constitute and appoint this Dft. to be his Majesty's Lt Gov^r of the said Province and the Territories depending thereon in America in the Words following (Here the Commission is inserted at length) as by the said Commission ready to be produced to this Hon^{ble} Court, fully appears. And this Deft. further answering doth admit that by virtue of the s^d royal Commission He this Dft. upon the death of the said Sir H. M. received the original Instructions given by his s^d present Majesty under his Signet and royal Sign Manual to the s^d S. H. M. and therefore well knows of the s^d Instructions as the Bill charges, and that he accordingly took upon himself the administration of Gov^t But that this Dft. knew of the Regulation or Establishment in the Bill

supposed to have been made respecting the Salary Perquisites and Emoluments of Gov^t by his said late Majesty King William the 3^d and that he thereby became liable to the articles and Things in the said pretended Establishment contained, or entitled only to the benefit and advantage thereby alledged in the Bill to be provided and established for the L^t Gov^r & Comd^r in Chief of this Province (that is to say) to one half only of the Salary Perquisites & Emoluments accruing by or from the administration of Gov^t untill another Gov^r in Chief of the Province should arrive, or that this Dft. knew or had the least reason to believe or suppose that the other Moiety thereof, from the date of the commission of such Gov^r in chief untill his arrival within this Gov^t. of Right belonged to or in any manner could be required claimed or demanded for our said Lord the King to be disposed of according to his royal Will & Pleasure, or that the same was to be received by this Dft for the use of his Majesty, or to be accounted for by this Dft. as his Majesty's Bailiff, Receiver or Trustee as in the said Bill is most untruely suggested this Dft doth Deny. On the contrary this Dft. further answering saith, that he this Dft understood and took it for granted that all the Salary Perquisites & Emoluments which might accrue or arise for the administration of Gov^t. by the Dft from the Time of the Death of the sd Sir H. M. untill the arrival of another Gov^r. in chief would become the sole and absolute Right & Property of this Deft without his being chargeable or accountable for a moiety or any part thereof to our said Lord the King or to any other whomsoever. And this Dft saith he conceives & is advised that he formed this conclusion on just grounds, & that it is corroborated and confirmed by the royal Instruction given to the s^d Sir H. M. and particularly set forth in the Compl^t Bill, in which altho' his Majesty has been pleased to declare it to be his royall Will & Pleasure that when it should happen that the s^d Sir H. M. should be absent from N. Y. one full Moiety of the Salary & of all Perquisites and Emoluments

which might otherwise become due unto him, should during the time of his absence be paid and satisfied unto such Gov^r, L^t Gov^r, Commander in Chief or President of the Council who should be resident upon the Place for the Time being, which is thereby ordered and allotted for his maintainance & for the better support of the dignity of this Gov^t. Yet no provision, disposition or even mention is made of the salary, Perquisites, or emoluments which might arise or accrue in case of the death of the s^d. Sir H. M. much less has his Majesty thereby reserved to himself the disposal of a Moiety thereof, from the Death of the s^d Sir H. M. untill the arrival of his Lordship, as in the s^d Bill is groundlessly suggested; and that no such Reservation Regulation or establishment, at least since the demise of the s^d late King W. the 3^d ever was intended or took place within this Gov^t, this Dft humbly conceives is made more evident from the several royal Instructions to former Gov^{rs} in Chief referred to by the Comp^t, and which he alledges and this Deft. admits to have been of the same import with that to the s^d Sir H. M. above set forth in neither of which the Regulation or Establishment, with respect to the Salary Perquisites or Emoluments, which might accrue to a L^t. Gov^r. Com^r. in Chief or President of the Council, for the Exercise of of the administration of Gov^t. on the death of the Gov^r. in Chief, as inferred by the Compl^t, from the Declaration of the said late K. W. the 3^d is any wise adopted, revived continued or inforced, nor is any power of disposing of a Moiety or any part of such Salary Perquisites & Emoluments mentioned or reserved to the Crown in any or either of those Instructions. And this Dft saith that he hath for upwards of fifty years last past, from time to time been Commissioned and employed in this Gov^t in various public offices by his present Majesty and several of his royal Predecessors which hath given him constant opportunity to be acquainted with the public Business & offices, and most of the Gov^{rs} & Comd^{rs} in Chief of this Province from the year of

our Lord 1720 when he was first appointed Surveyor Gen^l, and shortly thereafter one of his Majesty's Council, down to the present Time, that during this long Period the Administration of Gov^t on the Death of the Gov^r in Chief, hath frequently devolved on L^t Gov^r and President of the Council, and this Dft allways understood, and has good reason to believe, that upon every such Event, which hath from Time to Time hapen'd, the L^t Gov^r Com^{rs} in Chief or Presidents of the Council who respectively exercised the Administration of Gov^t received and enjoyed the whole Salary Perquisites & Emoluments which arose during their respective Administrations in such contingencies, and that no claim was on any such occasion interposed for the Crown thereto, or to the disposal of any part thereof, except in one single Instance, which this Dft begs leave to relate. In the year of our Lord 1731, John Montgomerie, Esq^r, then Gov^r in chief of the Province dying, and the administration devolving on Rip Van Dam, Esq. at that time President of his Majesty's Council, some time thereafter William Cosby, Esq. who had succeeded as Gov^r in Chief arrived in this Province and caused a claim to be interposed in behalf of the Crown to one half of the Salary & Perquisites which had accrued to and been received by the said Rip Van Dam, in the course of his administration, between the death of the said Gov^r Montgomerie and the arrival of the said Gov^r Cosby, and this Dft well remembers and doubts not he shall be able to prove that the s^d claim & the Proceedings thereon were generally esteemed unprecedented & groundless, and excited great clamour & Discontent, and tho' a Suit was commenced to compell the sd. Rip V. D. to account in his Majesty's Court of Exchequer before the Judges of the Supreme Court of Judicature which this Deft. then understood and verily believes was advised by the then Attorney General and Council for the Crown to be the proper Judicature for the determination of a Controversy, so similar in its

circumstances to the present, yet the prosecution thereof was afterwards relinquished without producing any other Effects than violent animosities which to the great disquiet of the Gov^t long remained unextinguished, the s^d R. V. D. finally retaining as this Dft is informd & believes, & hopes if necessary to prove the enjoyment of the full salary & Perquisites w^h had accrued during such administration. And this Dft. further answering saith, that he is informed & believes & doubts not he shall be able to prove that at the Time of the s^d supposed Declaration of his late Majesty K. W. the 3^d & for some years thereafter Duties were raised from Time to Time within this Gov^t by acts of Legislature, & granted to the Crown, to be disposed of and appropriated according to the royal Will Pleasure without restraint or reserve, & that such Duties, as they were from Time to Time raised & collected were paid into the Hands of a Receiver G^l appointed by the Crown and independent of the G^l Assembly. At this Period his Majesty without the intervention of the s^d G^l Assembly, by his royal Instructions or otherwise ascertained & granted the Salary which should be paid to his Gov^r in chief out of the s^d Revenue. And this Dft. conceives that while the s^d Fund and Establishment subsisted his Majesty could rightfully enjoin a submission to the Terms mentioned in the s^d Declaration respecting such Salary, or any other which his royal Wisdom might direct. The Gov^r L^t Gov. & Comd^{rs} in chief then receiving their support from his immediate Bounty. Nor in case of the death of a Gov^r in chief could there have been any impropriety in reserving for his own royal disposal a Moiety or any part of the Salary appointed for that office, and therefore if the Establishment inferred by the Comp^t from the s^d Declaration took place in this Province at the above Period which this Dft neither knows nor admits, it might be reconciled to the principles of Reason and Justice. But this Dft. saith that he is inform'd and believes, and doubts not he shall be

able to prove that for a great number of years last past the above mentioned mode of providing and granting a Revenue to the Crown by provincial Acts of Legislature indefinitely and without appropriation hath been abolished, and instead thereof the usage now is, and long hath been to place all the Revenue so raised into the Hands of a Treasurer appointed by the House of Assembly, and only to appropriate the same by the authority of the Gov^r the Council and General Assembly. That since this change the H. of Assembly have retained the power of fixing by their own Resolutions, the Salaries of the Governors & other officers who are supported at the public expense, which receives the concurrence of the Crown no otherwise, than by the the Gov^{rs} assent to the Law providing for the payment of such Salaries. And this Dft. further saith that tho' formerly such Provision for the support of the Gov^r and other public Officers was frequently made for the Term of five years together, yet for many years last past, the same hath been granted annually and for the service of the current year. And this Deft. saith that if such Establishment concerning the Salaries of the Governor or Comd^r in Chief as is suggested in the Bill, ever prevail'd in this Gov^t it is reasonable to conclude that it must have been relinquished and laid aside when the Crown not only submitted to the Assemblies fixing the Salary, but enjoyed no longer any power, but a negative thro' the Gov^r or a Right of Repeal over the Fund from which it was produced. And this Dft. humbly conceives that where the Salary is the free Grant of the People by their Representatives, confirmed by act of Legislature it is utterly improbable to suppose that his sacred Majesty or any of his royal Ancestors could have meant or intended by their Instructions to secure or reserve to themselves a share or Interest in, or a Right of action to any Salary so granted in Reconpence for the services of their L^t Gov^r or Com^{rs} in chief, and for the support of the dignity of their Gov^t. And from hence the said Deft

conceives it is easy to be accounted for why such reservation as is contended by the Comp^t and which is the ground of this suit, is not contain'd in, nor can be inferr'd from the royal Instructions of his s^d present Majesty to the s^d Sir H. M. or any former Instructions to which the said Bill refers. And altho' this Dft. is apprised that the Instruction respecting the Salary, in its present Form, and as it has for many years been handed down, appears to be inconsistent with the Right and Title derived from immediate and personal Grants of the provincial Legislature to the Gov^{rs} in chief or to the L^t Gov^{rs} or Commanders in chief, in whom the Salaries have from Time to Time been vested, yet this Dft. conceives that the continuance of such Instructions from a Period, when considering the Right of the Crown to the sole and absolute disposal of the public Revenue, it might have been proper and effectual, to latter, and the present Times, when, in the Judgm^t of this Deft, it could not and cannot be obligatory, may be attributed to Inattention, with respect to the alteration of the Revenue, and the present Mode Established for the support of Gov^t. If not, to an opinion that such an Instruction however destitute of legal force, might have sufficient influence on the Gov^r in chief, from prudential motives, from the fear of his Majesty's displeasure, and the loss of office in case of disobedience. And that such Instruction is chiefly, if not altogether calculated to enforce the submission of the Gov^r in Chief, and to protect and secure the L^t Gov^r and Com^r in Chief this Dft. concludes may be collected from the Terms in which it is expressed. And this Deft further answering doth admit that he this Dft. during the Time in the Bill for that purpose mentioned continued as L^t Gov^r and Comd^r in Chief to exercise the administration of the Gov^t of this Province. And this Dft. further saith that in and by a certain Act of the Legislature of this Province made and passed at the City of New York on the 27th Day of January in this present year of our Lord 1770 Entitled

an Act for the payment of the salaries of the several officers of this Colony and other purposes therein mentioned, it is enacted that the Treasurer of this Colony should and he thereby was directed and required among other Things to pay unto this Dft. as L^t Gov^r of this Province for his administering the Gov^t thereof from the 12th day of September 1769 to the 1st day of Sept^r 1770, after the rate of £2000 p^r annum, which sum (as well as the several other sums therein applied are thereby directed to be paid by the Treasurer on Warrant or Warrants to be drawn by this Dft. or the Comd^r in Chief for the Time being, by & with the advice & consent of his Majesty's Councill of this Colony, and that the Rec^{ts} of this Dft. and of the several Persons named in the s^d Act, endorsed on the S^d W^t should be to the Treasurer good vouchers and Discharges for so much as should be thereby acknowledged to be received, as by the s^d act of Legislature, to which the Dft. refers, and on which he relies, here ready to be produced may more fully appear. And this Dft. further answering saith, that he hath received no salary for the administration of the s^d Gov^t from the 1st day of Sept^r last past untill the 18th day of Octo^r last when his Lordship the now Gov^r in chief arrived within this Province, no provision being hitherto made by Law for that purpose But this Dft. further answering doth admit that by force and virtue of the before mentioned Act he hath received from Abr. Lott, Esq. Treasurer of the s^d Colony the sum of £1327 : 17 : 1. being the amount of this Deft. Salary as L^t Gov^r afores^d and provided for and given to him by the s^d Act for administering the Gov^t aforesaid from the second day of January last past, being the date of his Lord^p Commission as Gov^r in chief as afores^d untill the s^d first day of Sept^r now last past (that is to say) after the Rate of the said £2000 p^r Annum, which first mentioned Sum of £1327 : 17 : 1. was paid by the s^d Treasurer to this Dft. in pursuance of the s^d act and of a W^t or W^{ts} issued before his Lord^p arrival by this

Dft as L^t Gov^r & Comd^r in chief af^d by and with the advice and Consent of his Majesty's Council, agreeable to the directions of the s^d act. And this Dft. saith that the Salary between the days last mentioned being granted to and vested in him by an express Law, He conceives and is advised that he is not chargeable & cannot be compellable to pay any part thereof to our now Lord the King, or to any other Person who is or may be authorized to receive the same for his Majesty's use. This Dft. expressly denying that it came to his Hands for the use of his s^d Majesty in the proportion in the Bill Mentioned, or in any other Proportion, or as his Majesty's Bailiff Receiver or Trustee, as in the Bill is untruly suggested. But declaring and Insisting that he received the same & every part thereof as the free grant of his Majesty's Subjects of this Province, for his this Dft^s Services in the administration of the s^d Gov^t for the Time afores^d as in duty to his Majesty and in obedience to his royal Instructions to the s^d Sir H. M. this Dft. might lawfully do. And he humbly hopes that as he neither was nor is conscious of any Trust respecting the s^d Salary to which he was or can be subject for the Kings Benefit Nor of any obligation to account for the same or any part thereof to any Person whomsoever. But received the whole thereof on a firm perswasion and in full confidence that it was his own absolute Property, so he may be permitted to keep and enjoy it without controul or mollestation, as in justice and good Conscience he conceives he has an undoubted Right. And this Dft. further saith that shortly after the arrival of his Lord^p the Gov^r in chief this Dft. received a verbal Message from his s^d Lord^p by his private Secrettary Captⁿ Foy, with a Paper entitled an Extract of a Letter from the Earl of Hillsborough to Lord Dunmore dated Whitehall, July 16th 1770, which is in the Words & figures following: The inclosed copy of a Declaration made by King William at the Treasury Board in 1698, will inform your Lordship of the Regulation established

with respect to the Emoluments of the Gov^r in America, in case of a Dissolution of Gov^t by the Death or absence of the Chief Gov^r. And it is his Majesty's Pleasure that a Moiety of the Perquisites and Emoluments of the Gov^t of New York be accounted for and paid to your Lordship from the date of your Commission to the Time of your arrival, signed Hillsborough. And this Dft. saith that conceiving by the said Letter & Message that his said Lordship the Gov^r in chief expected that this Dft. would pay him one half of the Perquisites & Emoluments of this Gov^t from the date of his Lordsp^a Commission to the Time of his arrival, this Dft. express'd to the s^d Captain Foy his surprise at a Demand so unexpected, and represented to him the Reasons & Objections which thus occurred to him against the Justice thereof. That the said Captⁿ Foy appeared to decline the subject, and requested this Dft. to let him know what answer he should return to his Lordship. And this Dft. then desired him to acquaint his Lordship that he would attend him the next Morning on the s^d subject. That accordingly this Dft. waited upon his Lordship and repeated to him his Reasons & Objections against a compliance with the s^d Demand. That his Lordship seemed to evade any argument, but insisted in strong Terms that his Majesty had a Right, that it was his Duty to prosecute for it, and that he dared not do otherwise. And this Dft. saith that haveing no other Evidence than an unauthenticated Extract of a Letter from the said Earl of Hillsborough to his said Lordship the Gov^r in chief he cannot admit it to be a legal or sufficient Declaration of his Majesty's Pleasure in a Matter of so much moment to this Dft. but leaves the Compl^t to the prooffe thereof as the law directs. And this Dft. also submits to his said Lordship whether the said Extract or the Letter itself were it produced & proved is a proper and legal Grant or disposal by his Majesty, of his Interest, if any he has in the said Salary, so admitted to be received by this Dft. as afores^d or a sufficient & legal appoint-

ment of his Lordship as his Majesty's Trustee or Receiver to receive, sue for, acquit & discharge the same. And if it should be adjudged by his Lord^p to amount to a Grant thereof to his Lord^p or only to an appointment & substitution of his Lord^p as his Majesty's Trustee or Receiver, to sue & call this Dft. to account and to Receive; and acquit & Discharge this Dft. from the same, whether in either case his Lord^p ought to take Cognizance in a course of Equity of this Cause respecting the Salary so answered unto by this Dft. as afores^d. And this Dft. doth deny all unlawfull Combination & Confederacy without that any other Matter or Thing in the Compl^t said Bill of Complaint contain'd material or effectual for this Dft. to make answer unto, and not herein before Demurr'd and answer'd unto, confess'd or avoided, traversed or denyed is true, All which Matters and Things this Dft. is ready to aver justify maintain & prove as this hon^{ble} Court shall order and direct. And this Dft. humbly Prays to be hence dismiss'd with his reasonable Costs & Charges in this behalf most wrongfully sustain'd.

JAMES DUANE TO LT. GOV. COLDEN.

New York, 28th November 1770.

HONOUR'D SIR,

It is not unusual to court the rising Sun, nor are the Ties of Duty always strong enough to resist its Influence. This may in some measure apologize for the Caution of my Brethren. For my part I never yet was a Courtier; nor can be charged with a single Instance of refusing my assistance to any one of whose Cause I had a good opinion. I shall not now sacrifice my Integrity or Independance to the Fear of giving offence. If the Esteem of a great Man, or even an Office of some profit, are not to be enjoyed but on such humiliating Terms I must be content to Lose them. I shall

therefore perform the Trust you repose in me with Cheerfulness and Fidelity. I have considered all your Remarks on the Bill. Some material Things have escaped you. One indeed which I think the Principle. You'll be pleased to recollect, that King William in his declaration which is the ground work of this suit only reserves to himself the Disposal of a Moiety of the *Salary* without any mention of perquisites or Emoluments. Now supposing the Declaration capable, which it is not, of establishing a Right in the Crown to half the Salary, it still does not affect the perquisites. Neither does the Salary now in question fall within its meaning, the moiety there spoken of being that which might become due or be allotted to the Governour in chief; but here the Salary is a personal Grant to your Honour as Lieut. Governour by act of Legislation. This seems to me a fair Construction, especially as *at least* this Declaration ought to be construed strictly, the power being so questionable. In my judgment, if no more could be offered, it would constitute a full Defence. I could point out many other essential Objections, but they are referred for a more mature Deliberation. As you are unfortunately circumstanced, it is much easier to suggest than to take advantage of them in a Course of proceeding. For which we must carefully avoid a submission of the merits, I could wish in the Defence to include everything that can be suggested to expose the unreasonableness of the claim. With this view I have some thoughts of answering fully as to the Salary, which considering the act, your commission, the usage &c. may I presume be done without Danger; and confining the Causes of Demurrer to the Perquisites & Emoluments, approving of your Resolution not to enter into any discussion respecting them. The appeal will be the grand point. If the Demurrer is overruled, the course is to order the Deft to answer. It will be insisted that if before the merits are disclos'd an appeal cou'd lie to the King and Council there wou'd be no End of Delay, and the Court must become use-

less and burthensome. This objection I fear cannot be easily removed. I shall be glad of your Thoughts of it.

The Plea to the Jurisdiction is another point of Difficulty. The Cause in itself as stated by the Compl^t is not improper for Equity Jurisdiction ; For the principal has a Right to call his Trustee to account on oath ; a Sanction which the common Law does not furnish ; and as a Trustee you are now considered in this proceeding. It is true in your case proof may be had of every thing actually received, yet it is possible a Governor might acquire Emoluments secretly : That possibility alone is I think good ground for the Interposition of Equity. Then it cannot be elicited from the Bill that the chancellor is interested, whatever may be the Fact, a bare authority to receive, which is set forth, not implying Property : and you know Sir that if you plead to the Jurisdiction you cannot take advantage of a single Fact or circumstance, but must rest upon the Case as they have stated in proof of the Interestedness of the Judge. I mention these points as they are most necessary for your immediate Consideration, that you may be able to take up the Defence in a just point of Light ; & determine on the propriety of the plan above hinted.

I am, hon^d Sir, with the greatest Respect, your most obedient humble servant

JA^s DUANE.

Lieut. Governour Colden.

TO JAMES DUANE ESQ.

Spring Hill, Dec^r 2^d 1770.

DEAR SIR,

I am extremely obliged to you for the trouble you take in my affair. As I confide intirely in your ability and fidelity, I must trust to you as to the method of conducting for as to that part I am entirely ignorant.

As I did not think that King Williams Declaration is of any force now, I did not attend to it with any accuracy, but certainly what you observe is very material.

I have always considered that the Right a Man has for any Thing in his Possession can only be tryed in a Court of Common Law. If I have the Right I am not the Bailiff of any other Person in any Construction.

Q. Whether a Secrettary of State can by his Letter only Impower any Person to Receive the Kings Debts & to discharge them & whether a Decree in Chancery can be a sufficient Discharge. If a Secretary of States Letter be of sufficient authority whether it ought not to be set forth verbatim and the whole of it, because the powers given may be restrained to certain Circumstances & limited—and it may appear from it that the money is given to the Gov^r for his use.

If a Court of Chancery, have no authority relating to the Kings Debts, nor cannot determine the Right, then the Proceedings must be entirely vexatious & injurious, and an appeal ought Certainly to be allowed. The Equity side of the exchequer seems to exclude the chancery from intermeddling in any case of the King's Debts. The Barons of Exchequer who judge between the King and subject were always *quam diu bene gesserint*.

May I not in the Demurrer apply to his Lordships honour whether he be not interested in the event of the suit & expects to Receive what is Recovered to his own use, & whether he will take upon himself to judge in such Suit.

Blackstone is so very explicit in asserting that Appeals are allowed from interlocutory Decrees in Equity, that I cannot doubt of his writing on good authority. If on any case an appeal be allowed it must be in mine. However I would appeal on Blackstone's authority & let it be refused—the refusal must be at their peril.

May we not appeal to the King without adding *in his Privy Council* because the appeal may be to the

King in Parliament and my Council in England may chuse which.

As I am now in the Country & my age & Health such that I cannot travell without endangering my Life a long Time maybe desired insisted on to plead or answer.

I can make oath that I have received no perquisite or Emolument but what may be discovered by the officers of the Crown, Except the letting of the Island on rent which Lord Dunmore knows from Dean.

I have given you the trouble of what occurred to me at present & again add that I entirely trust to your Prudence, and that I very affectionately, D^r Sir.

P. S. Mr. Fairhorn assures me that it is the Common Practice in Jamaica to appeal from interlocutory Decrees, and gives some Instances where he was concerned himself, and I am perswaded Blackstone knows it to be the common practice in England when he wrote. It is a point of the greatest consequence in this case.

TO ARTHUR MAIRS, ESQ.

Spring Hill, New York, Jan^y 17th 1771.

SIR,

The inclosed are abstracts of the Bill in Chancery, filed by our Attorney General against me by direction of the Earl of Dunmore; and of the Demurrer and answer which I have put in, by my Attorney, M^r Duane. We were under a Rule to argue in support of the Demurrer on the 3^d of this month, but M^r Duane loseing his eldest son the Day before, his Lordship condescended to postpone the hearing to the 10th M^r Duane delivered his argument on that day, before a very unusual Audience in the Chancery Court for seldom any one but the Parties attend there. On this occasion a good many Gen^l attended and many more would have gone, had not the Court been held in his

Lordships House, contrary to a Proclamation issued by himself appointing the Court of Chancery to be held in the City Hall. The Court and audience waited near an Hour for His Lordship,—at length it appeared that M^r Smith, the Council for the Bill, had been all that Time Closetted with His Lordship; this was taken notice of by every Body present.

M^r Duane thought the Demurrer of such consequence as to Deserve a written Argument. He acquitted himself much to my satisfaction, and I hear his Performance is greatly applauded by the audience. I shall enclose a copy of the Argument, if it can be made before the Packett sails. He is obliged in the meantime to make a copy for the complainant, they having agreed to give each other copies of their Pleadings; this may prevent his getting one ready to send you. The Complainant under a Rule to argue on the 7th of February. Never before did a Chancery suit in this Province proceed with such rapidity. However, I hope to hear from you, and the Council you have employed for me, before his Lordship can give a Decree upon the Demurrer. Hitherto we have asked no Time, notwithstanding we were deprived of a week which we were legally intitled to: but if his Lordship should appear still disposed to give us such short days we shall interpose, and shew how unusually and unreasonably we have been driven in a cause of the greatest importance that ever was in this Court—a Cause entirely new and unprecedented.

I was informed many years agoe, by one of our Governors that the Establishment for Lieut. Governors, was directed in the original Entry of the Kings Pleasure to be *one half of the salary and all Perquisites and Emoluments*. And that a clark had been Prevail'd upon to interpolate the single Word (of) thereby rendering it *one half of the Salary and of all Perquisites and Emoluments*. The anecdote is strongly impressed on my mind, and it now occurs to me that the interpolation may have been made in the Treasury

Entry of King William's Declaration: or it may be found that this Little material word is not on that Entry. You will please to consult with my council upon this head, and take their directions for making a carefull inspection of the original Entry at the Treasury. For tho' we deny that the Declaration is of any force now yet a discovery of such an alteration would overset every pretended effect of it.

It is remarkable that King Williams Declaration, which as it stands inserted in the Bill is defective, inconsistent and repugnant to common Justice, would by striking out the word (of) in that Place become consistent and equitable. The King had a Right to dispose of the salary according to his Pleasure, at a Time when it was given solely by him, but he could at no Time have a Right to divert the Perquisites & Emoluments from the Person who executed the office. By the Declaration the first is done, omit the Word (of) the Latter is not done, and the subsequent clauses are then consistent which in the other case they are not. There is some uncertainty here about the date of the Declaration, whether it be in 1697 or 98. I mention this lest a mistake might mislead you in searching for the Entry.

I hope you have omitted no opportunity of writing to me. I now enclose the second Bill of Exchange, which was left out of my Last Letter The Postage of all my Letters to you is paid here. I am, &c.

LIEUT. GOVERNOR COLDEN	}	IN CHANCERY.
<i>ads.</i>		
ATTORNEY GENERAL, <i>pro</i> <i>Dom. Rege</i>		

ARGUMENT FOR THE
DEFENDANT IN SUPPORT OF HIS
DEMURRER.

May it please your Lordship :

Long distinguished by repeated Marks of the Royal Favour and Confidence, it is with great anxiety the Lieut. Governor finds it incompatible with his just Rights, to yield Obedience to the most distant intimation of his majesty's Pleasure. But in the Eve of Life to be plung'd into a public defence of those rights, to encounter the Crown in an expensive and unequal Course of Litigation, to be marked with the Imputation of a Breach of Trust—in short, to be represented (for so much he thinks the Bill plainly implies) as a fraudulent Bankrupt who has artfully vested his Estate in others to elude the hand of Justice, are unlook'd for misfortunes which he cannot but lament.

Under these Circumstances, My Lord, which equally affect both his honour and his Interest, we hope this defence will meet with an indulgent Reception. Apprised of its delicate Tendency, and of my inability to lead in an unbeaten Path, it is too probable, I may fail in managing it to the best advantage. I shall however, with the greatest Deference and submission to your Lordship, endeavour to acquit myself with fidelity and candour, by omitting nothing I conceive material or important, and avoiding every Thing, which in my Opinion may be trivial or improper. In examining a Subject which formerly excited the most unhappy contests, and yet has never received a judicial Decision, I flatter myself I shall stand excused in exercising that

Freedom which is so necessary in every enquiry after Truth, notwithstanding it must oblige us to oppose the sentiments of his Majesty's Minister, who by his Letter to your Lordship, doubtless is perswaded that this claim is fully justified by ancient Establishment.

Altho' we are now come to a Hearing on the Demurrer, yet, as should that prove substantial, his Majesty's Title to part of the salary, and to all the Perquisites and Emoluments will be sapped to the foundation, The present Debate, reaching the Merits of the Controversy, is of the utmost Moment. To give it due weight, to prevent Misapprehensions, and to explain myself with order & perspicuity, I have not thought it unworthy of the deliberation of a written argument.

But before we take up the Demurrer itself it is proper to give some account of the Bill which strip'd of the incumbrances of form, may be reduced to a few plain facts. The Declaration of King William is the Basis on which it is built; and it is alledged that attentive to support the Dignity of his Governors in the Plantations, on the Death or absence of the Chief Governor, he was pleased in the year 1698, to cause an entry to be made at the Treasury Board of England to this effect:

"That on the Death or during the absence of the Governor in Chief, a full moiety of the sallery and of all Perquisites & Emoluments which would otherwise become due or were allotted to the Governor in chief, be paid and satisfied to such L^t Governor or Commander in chief who should be resident upon the Place for the better support of the Dignity of the Government. That the said *half salary* should not on any account be diverted *for the future* from such Lieut. Governor or Commander in Chief. That the Governor in Chief should not pretend to receive or take to himself upon any account whatsoever any part of the said *half salary, Perquisites or Emoluments* due or accruing to the Lieut. Governor or Commander in Chief, during the absence of such Governor in Chief or untill

his arrival upon the Place. His Majesty likewise reserving to himself the Disposal of the other Moiety of the said *Salary*, from the Date of the Commission of such Governor in Chief untill his actual arrival within the Government."

This is charged in the Bill to be a Regulation and Establishment according to the form and effect whereof, his present Majesty, and his royal Progenitors, Kings and Queens of England, have directed in all their Instructions from that Period; among which there from Time to Time was and is, an article of the same Import with that to Sir Henry Moore, particularly set forth—(to wit)

"And whereas we are willing in the best manner to provide for the support of the Government of the said Province, by setting apart a sufficient allowance to such as shall be our Governor, Lieut. Governor, Commander in Chief or President of our Council, residing for the Time being within the same; our will and pleasure therefore is that when it shall happen you shall be absent from New York, one full Moiety of the salary and of all Perquisites and Emoluments whatsoever, which would *otherwise* become due *unto you* shall during the Time of *your absence* be paid and satisfied unto such Lieut. Governor Commander in chief, or President of the Council who shall be resident for upon the Place for the Time being, which we do hereby allot unto him towards his maintainance and for the better support of the Dignity of that our Government."

My Lord, as the Title of the Crown centers in this Instruction and the Declaration, it is necessary that they should both be kept in view for which reason I have recited them at large. The other Passages till we come to the Relief which is sought, may be briefly summed up (to wit)

That Sir Henry Moore being constituted Governor in Chief arrived and published his Commission on the 13th Day of November 1765, and was thereby legally invested in that office. That dying on the 11th Day of

September 1769, the Government devolved on the Defendant who thereby became liable to the said Establishment and entitled to one half of the salary, Perquisites and Emoluments untill another Governor in chief should arrive; and that the other Moiety from the Date of the Commission of such Governor in chief, untill his actual arrival of right belonged to the King to be disposed of according to his Royal Will and Pleasure: but nevertheless to be received by the Defendant for his Majesty's use, and to be accounted for as his Majesty's Bailiff, Receiver or Trustee. That by virtue thereof from the second day of January last, the date of your Lordship's Commission untill the 18th Day of October when your Lordship arrived, he hath received for the use of his Majesty and himself in the Proportions aforesaid Salary, Perquisites & Emoluments to a Considerable amount. That his Majesty hath signified his Royal Will & Pleasure that the Moiety thereof shall be accounted for and Paid to your Lordship of which the Defendant hath had due notice.

The scope of the Bill is therefore to compell the Defendant to discover what he hath so received since the Death of the said Sir Henry Moore—How much of the salary yet remains unpaid—How much hath accrued as Perquisites and Emoluments—How much thereof hath been recovered and what remains unpaid and by whome—How much he hath taken security for, and to whome made payable; and to set forth such securities—what real Securities he hath taken, what lands or other things have been taken in lieu of any such money, and for how much—What other Lands have been purchased by him or any other Person, and whom for himself or others, and for whom, with any such Money, and how much was paid, or agreed to be paid for such Lands or other things respectively—And lastly that his Majesty may be paid and satisfied one full moiety of all and singular the said Salary Perquisites & Emoluments.

This is in a few words the substance of the Bill. To

so much as seeks a Discovery of the *Salary* from the Death of Sir Henry Moore to the Date of your Lordships Commission; and of *all the Perquisites & Emoluments* the Defendant hath Demurred. And to the residue of the Complaint hath fully answered.

It is our present Business my Lord, to point out and mention the several causes of Demurrer, and for method sake, we shall range them under three general Heads of Enquiry.

1. Whether the Bill establishes a good Title in the Crown to *any thing* which is the subject of the Demurrer.

2. Whether, if our Objections on this point should be over ruled, a sufficient authority, derived from his Majesty, is shewn to compell an account, and authorise a Decree. And

3. Whether, more being Demanded than is warranted by the Claim as set forth by the Complainant, the Bill on that account ought not so far to be dismissed?

Under the *first* general Heads the *five* first Causes will properly be applied. The *sixth* Cause under the *second* and the *rest* shall be assigned to the *last* Head.

In this order we proceed to consider

1. Whether the Bill establishes a good Title in the Crown? We conceive it is fatally defective, and the Demurrer accordingly avers that: "It appears of the Complainants own shewing that our Lord the King hath no Title or Equity, whereon such Decree as is prayed for by the Bill can be grounded or made against this Defendant.

First because his late Majesty King William the Third could not by Law, in virtue of his before mentioned Declaration appropriate or reserve for his Royal Successors the Salary which *after his Demise*, might be granted to—or the Perquisites or Emoluments which might *thereafter* be acquired or received by the Lieut. Gov^r or Commander in Chief for the exercise of the administration, *on the death of a Governour in Chief*.

It is a remark, my Lord, of an excellent author that there cannot be a stronger proof of that genuine Freedom which is the boast of Great Britain than the power of discussing and examining with Decency and Respect the Limits of the Kings Prerogative. However *transcendant*, they are not *absolute* or *Indefinite*: but so ad-measured by the common law, as we learn by my Lord Coke (2^d Inst. 63) that they cannot take away or prejudice the Inheritance of the subject. Hence we find the antient German Maxim so consonant to the Principles of Nature, of Liberty, of Reason and Society, has always been esteemed, even when the Prerogative was at the *highest*, a part of the Common Law of England *Nec Regibus infinita aut libera Potestas* and according to Bracton *Rex debet esse sub Lege quia Lex facit Regem*.

Upon these Principles in support of our first Cause of Demurrer we shall take the Liberty of enquiring how far the Declaration of King William even had it been pointed and express would *legally* reserve a moiety of the Perquisites & Emoluments of administration?

The term Perquisites from *Perquisitus* signifies a Profit or any thing gain'd by ones own Labour or Industry. By Emoluments may be understood all Benefits or advantages arising from an office or an Estate.

Both terms seem to be considered in the Declaration as sinonimous, and perhaps it is difficult as applied to our subject to form the Idea of a Distinction. But the word Salary, we shall shew in its proper Place, implies that reward which is peculiarly assigned by the Crown or the Legislature for the Exercise of the Administration.

The Terms thus explained, we beg leave, on the authority of a learned judge to observe that altho it is a Maxim *that the King can do no wrong* it does not follow that everything transacted in a course of Government is *Just and Laudable*. The King is incapable of *doing* or *thinking* wrong; he can never *mean* to do an *improper* Thing: in him is no folly or weakness; and

therefore if the Crown should be induced to an act, contrary to Reason, or prejudicial to the Common wealth or a private subject, the Law will not suppose the King to have *meant* what was unwise or injurious; but attributes it to the fault, to the error, or the inadvertence of those to whom he commits the management of the public concerns.

In this light it is we wish to be understood in treating of those Acts of Sovereignty which our Subject points out.

We acknowledge that the King is the fountain of all Honours and Offices. The Constitution hath vested him with the sole power of dispensing them according to his Royal Pleasure. But when the Honour or the office is conferr'd, it is not to be admitted that the Possessor can arbitrarily be strip'd of the Benefits annexed to it by Law. A Commoner, for instance, ennobled is raised to exalted Privileges. And is it not repugnant to the principles of the Constitution to suppose that the Prince, by a mere Act of Power can degrade him? Unless for some offence, he cannot be excluded from a share in the Legislature, and this only by the Judgment of his Peers. For the worst of crimes, he cannot be debarred of a Tryal at their august Tribunal. In short he is indebted to the Bounty of the Crown alone for his elevation, but it is the Law of the Land which prescribes and secures all the Immunities flowing from his distinguished Rank. So while an Office is vested in a subject, the advantages incident to it are his Inheritance. If in compensation of his services, whether of a Public or private nature he obtains a Reward, if he receives a Salary or Perquisites or Emoluments for the Exercise of the Duties of his Functions, they become his *rightfull property*, which cannot be alienated without his consent, or forfeited without his Demerit. I should think the Daily Labourer not more firmly secured in the enjoyment of his Wages, than the highest officer in the Benefits legally derived from his Employments. How indeed can it be con-

ceived that, because *he* is favoured by a gracious Prince with Preferment that he therefore holds the Wealth it has enabled him to accumulate on a Tenure more feeble & precarious than the meanest Peasant enjoys his Pittance?

Besides it is humbly submitted to your Lordship whether a contrary Principle might not be equally derogatory to the honour of the Crown & the Rights of the People?

What could more diminish our veneration for the Royal Character than to see the Prince condescending to Bargain for a share of the Fruits of his Subjects Labour and Industry, converting his Lieut. Governor (to speak in the Language of the Bill) *into a Bailiff*: and assuming a Right to exact from him a Moiety of what the *Law*, not the *Royal Munificence* has assigned for his support. I speak it with the greatest submission—it is unreasonable, it is repugnant to every Idea of our illustrious Monarchy to suppose a system so contracted could ever have been intended or prevail'd in the British Dominions.

Nor are the Mischiefs with which it might be pregnant inconsiderable. Could it be justified with respect to Plantation Governments; might it not on the same Principle be extended as the Rule for every Place of Profit under the Crown, from the Lord Chancellor's down to the lowest officer in the state? All might be made tributary to the Royal Coffers, and in any Proportion that should be demanded. The consequence too probable would be that officers of the highest Dignity & Importance must sink into Discredit, the Public be badly served, and a Profusion of Wealth drawn into the Treasury by means which the Constitution never intended, and which no Policy or Reason can reconcile. Neither the *singularity* of the Case, nor the Distance of *Climate* afford room for Distinction. What would be unjust or inexpedient in England must appear in the same point of Light, tho it has America for its Object. I need not to a Peer of Great Britain, who so

well understands our excellent Constitution, to a natural Guardian of the honour of the Prince and the Rights of the Subject, expatiate on the evils of which so illiberal a system might be productive.

May I be permitted only to add that when it was found necessary in the *Parent Kingdom* that offices should contribute to the Kings permanent Revenue no less authority was conceived effectual than *an Act of Parliament*, which instead of a Moiety, assessed no more, than a shilling in the Pound on the annual Income: I allude to that *highly* popular statute pass'd in the 31st year of King George the Second.

My Lord, I must not be understood as censuring King Williams Declaration. The slightest attention will evince that this gracious Prince had nothing less in view, than to avail himself of the *Perquisites* which might arise in this Government. He has made *no* reservation of this nature; nor hath any of his royal successors. I offer these arguments to combat a construction repugnant to Reason and good Policy, and I may add to the Principles of natural Justice.

But even if King William could lawfully have appropriated to himself one half of the *Perquisites and Emoluments*, If it was as *clear* that he had done it, as I think it is *manifest* that he has not, another question will arise, Whether he hath by this Declaration made such a Reservation in favor of his *royal successors*?

And here it is worthy of remark that the appointment of the Lieut. Governor and the investiture of those Benefits which appertain to the Office proceeding from the Kings *Royal Favour*; not upon *suit* or *Petition* but *ex mero Motu et speciali Gratia*.

My Lord it is a Rule that every Grant of this nature shall be favourably interpreted, for the *Honour* of the Crown and the *Benefit* of the Subject. Besides Laws both Human and divine concur in this maxim that the Labourer is worthy of his Hire—That he who performs the Duty is worthy of the Recompence.

It is not therefore refined and subtle Distinctions;

it is not a strain'd and unnatural Interpretation; it is not the charm of a supposed Establishment, drawn from Materials which speak a different Language, that can support the present Claim. Nothing (if the authority was unquestionable) but the clearest and most explicit Terms, could diminish those Rights which Reason and Equity have so firmly united to the Possession of the Office. But the Declaration even with Respect to the *Salary*, for as to *Perquisites* or *Emoluments* it is *altogether* Silent, goes no further than to reserve the Disposal of a Moiety to the *King himself*, without the most Distant allusion to his *successors* for whose Benefit no manner of Provision is made. This alone on the Principle that the Title of the Defendant, must be *liberally expounded* will Prove an invincible obstacle to his Majesty's Claim, if it rests singly on this Declaration; and as we shall clearly shew, *no Prince* since the Reign of King William, has thought proper to embrace the same advantage. But before we proceed to this *capital* and *leading* Principle of our Defense, we shall briefly enforce the next cause in order (to wit)

“Because, Secondly, the efficacy of the said Declaration, if any it ever had, altogether ceased and expired with the Life of the said late King William; nor ever since hath been, nor now is, of *any* force or Validity.”

If My Lord the supposed Establishment is unsupported by any thing but the Declaration—If it never was confirmed by subsequent Instructions, this cause o Demurrer must be self-evident.

The Declaration was no more than a verbal Direction of his Majesty, without the advice of Privy Council, unauthenticated by any Seal or even the Sign Manual—hastily and *inartificially* communicated by Mr. Blaithwait at the Treasury Board. From the *Nature of the Thing* it could not have been intended as a *permanent Establishment* for according to the *Circumstances* of the Colony and the *State of the Revenue* from which the Salary was supplied, must

such disposal have been just or unjust, suitable or inexpedient, and consequently have *required alteration*. If for instance it was provided out of the Kings Exchequer, which at the time of the Declaration was notoriously the Case, it was Reasonable that his Majesty should qualify the Grant on any Terms his Royal Wisdom might suggest. But if as at Present and for many years past it proceeded from the immediate Grant of the People, they became the Judges of the *Service*, and the *authors* of the *Reward*; and then it must be altogether *inconsistent* for in such case the King would not dispose of *his own*; but of the Property of *another*. *Nemo plus juris in alium transferre potest, quam ipse habet* is a maxim of Law from which even the sovereign is not exempted.

Besides every Royall Commission (except as merely to prevent a failure of Justice, it derives a temporary Continuance by Act of Parliament) expires on the Demise of the Prince by whose authority it issued; and that even where the Tenure is *quam diu se bene gesserit* as is proved from the well known Case of the Judges; for whose *Stability* an act Passed in the Present Reign.

Upon the same Principles that the *Commission* ceased, the Disposition of the Salary (where it is a just Prerogative) must depend upon the Pleasure of the Successor. For it would be folly to suppose that he had not, with the Power of filling up the Office, an *equal* Right to appoint the Terms on which it should be held. Accordingly it is unquestionable, and is so stated in the Bill that in *every Instruction* to *every Governor* the Kings Pleasure with respect to the Salary is expressly intimated.

But as the succeeding Causes of Demurrer will assist us in clearing up this Point, by comparing the Declaration with the subsequent Instructions, we shall Pass on to state and consider them; which may be done with less Prolixity, by connecting the three following under one view (to wit).

“Thirdly Because according to the Complainants own shewing it appears that the regulation directed in and by the said pretended Declaration of the said late King from the time of his Demise hitherto, hath not been nor now is in any wise adopted, received, extended, enforced, or continued, as a Rule or Establishment for the support of the Lieut. Governor, Commander in Chief or President of the Council of the said Province; in case of the Death of a Governor in chief thereof; Or for the Disposal or application of the Salary Perquisites or emoluments which from time to time, or at any time have arisen, or accrued, or might arise or accrue on such contingencies or of a moiety, or of any Part thereof.”

“Because, fourthly it appears of the Complainants own shewing that the Royal instruction on that subject from Time to Time given to the Governors in chief of the said Province, since the said Declaration of the said late King, and referred to in and by the said Bill; and the Royal Instructions in and by the said Bill mentioned to have been given to the said Sir Henry Moore and therein particularly set forth, provide and direct that when it should happen that the respective Governors in Chief, to whom such Instructions were respectively given, should be absent from *New York* one full moiety of the salary Perquisites and Emoluments which would otherwise become due to such Governor in Chief respectively, should during the Time of their respective *absence* be paid unto such Governor, Lieut. Governor Commander in chief, or President of the Council, who should be resident upon the Place for the Time being, for the better support and the Dignity of the said Government.

Therefore of the Complainants own shewing it appears that no Regulation or establishment is in any wise made or provided by the said Instructions to the said Sir Henry Moore respecting the salary Perquisites or Emoluments which have accrued or arisen in the exercise of the Administration aforesaid by the

Defendant, upon or since the Death of Sir Henry Moore, and for which the Defendant is called in Question. But of such *only* as might have become due to the said Sir Henry Moore in his Life Time, for the exercise of the administration aforesaid, during his absence from New York. And in like manner it appears that no Regulation or Establishment from the Time of the pretended Declaration of the said late King, hath *hitherto*, in any wise been made or provided, by any or either of the Instructions, to any or either of the former Governors in chief, in the Bill referred to, respecting the Salary Perquisites or Emoluments, which have accrued or arisen upon or after the Death of any or either of such former Governors in chief respectively, during their respective Life Time for the exercise of the administration of the said Government in their respective absence from New York."

"Fifthly, Because according to the Complainants own shewing neither our said Lord the King in his said Commission or instruction to the said Sir Henry Moore in the Bill mentioned nor in any other act or Declaration of his Royal Will and Pleasure to him signified; nor our same Lord the King, nor his Progenitors Kings or Queens of England or Great Britain, in either of *their* Royal Instructions in the same Bill mentioned, to any former Governor in chief of the said Province, *have nor hath either of them*, from the Time of the Pretended Declaration of the said Late King William the Third, hitherto reserved or appropriated to himself or themselves, or to either of them respectively, the Moiety of any part of the *Salary, Perquisites or Emoluments* which have arisen or accrued, or might arise or accrue from the administration of the Government of the said Province *by this Defendant* or any *former* Lieut. Governor or Commander in chief on the death of the said Sir Henry Moore or any former Governor in chief of the said Province, on the Disposal or application thereof in any wise howsoever."

The *first* of these three Clauses discloses a *fatal De-*

fect in the Bill (to wit) that it does not appear that the Establishment on the Death of a Governor in Chief, inferred from the Declaration, hath from the Reign of King William hitherto, in any wise been revived or adopted. The *second* places this Defect in a still more glaring Light, by objecting that the very Instruction on which the Complainant relies to Prove the Establishment speak a Language the *reverse*, and offer the clearest evidence that it has no existence. The *third* has the same Tendency but is more *pointed*; striking at the very Ground and Principle on which the Claim (was the authority unquestionable) could alone be supported by urging that, according to the Complainants own state of the case, neither his *present* Majesty, nor any of his Royal Progenitors have reserved to themselves, a share or Interest in the Salary, Perquisites or Emoluments of administration.

My Lord if we examine the Declaration with the least Degree of attention, it must appear very extraordinary that it has ever met with a construction unfriendly to the interest of Lieut. Governors or Presidents of the Council. From a gracious Regard to their security it evidently owed its rise and introduction. It implies that former Governors in chief had unwarrantably assumed the whole Profits which accrued from the exercise of the Administration during their absence, and left the dignity of Government unsupported. As if one positive command would not have been sufficient to suppress this unequitable practice, it is in the strongest terms *repeatedly* prohibited. In the *First* Clause a Moiety of the *Salary, Perquisites and Emoluments* in case of the Death or absence of the chief Governor, are assigned to the Lieut. Governor or Commander in chief for exercising the administration. The *second* directs that it shall not *upon any account* be diverted from him *for the future*. The *third* *peremptorily* enjoins the Governor in Chief, not to pretend to receive or take to himself *upon any account whatsoever* any Part of it. These

three different clauses to enforce the *same object*, with the Reservation to the King of the Disposal of the other Moiety of the *Salary* comprise the whole Declaration. Most evident therefore it is, that this measure was purposely contrived for the security of that Person Officiating on the Death or absence of the Governor in Chief, and it is a singular Misfortune, that it should now be strain'd and expounded to his Prejudice.

And here we beg leave once more to look back to the *Declaration* to Discover why the King found it necessary to interpose his Royal authority. If as at present, the *Salary* had been granted to the Commander in Chief by the Legislature—If the Perquisites & Emoluments he might acquire by his actual & personal services had been fenced by the *known Rules of Law*, against the reach of the Governour in Chief, under such circumstances, he who performed the Duty could not have stood in need of the Royal protection, which must have proved a dead letter, and of no avail. For I hope none will suppose that this show of Tenderness was only a *Delusion* not in reality to *serve* but to *prejudice*, by ushering in a *Reservation for the King*, instead of a *Benefit for his servant*. A suspicion so injurious to the memory of a great Prince, cannot but be rejected with Disgust; and yet as applied to the present case, is not this most apparently its only Effect? What advantage does it offer to the Defendant? I believe none acquainted with the *nature of this Government* with the *present mode of providing the Salary* and the sources from which Perquisites and Emoluments are derived will venture to affirm that *abstracted from the Declaration* the Lieut. Governor has not a clear and indisputable Right to every thing which is now drawn in Question. So that unhappily, what was originally intended for the safe Guard of his office is now set up as the fountain of the King's Title to a moiety of the Fruits of his Labour, which he must otherwise have enjoyed *without controul*.

But to clear this Declaration from the imputation of

Injustice we need only have recourse to the Time when it was framed. The Colony was then in a state of *Infancy*, and the Power of the King's Governor and *Right* of the subject but little enquired into or understood. It was but *shortly* before that the Will of the Governour and Council was the Law of the Land—the few Inhabitants partaking of no Legislative Representation. Indeed the Declaration could only be suited to a rude state; for it presupposes that the Governor in chief had assumed and might exact the whole Salary Perquisites & Emoluments which arose *even while there was a vacancy in the office of a chief Governor*. To whatever source we attribute this strange opinion, whether to the Countenance of former Ministers, to the usurpation of chief Governors or to the consent or acquiescence of the Inhabitants in that dark period, certain it is that it had prevailed, and that King William was convinced it required Reformation. In this *View*, his Declaration was a gracious Interposition in favour of Lieut. Gov^{rs} or Commanders in chief, since it secured him a Portion of that from which he had before been totally excluded. The King from whose Revenue at this time the Salary was provided, conceived that half of the usual allowance to the Governor in chief, was sufficient for the rank of one casually exercising the administration; and therefore reserved to himself the application of the remainder; probably with an intention to confer it as a reward to the Lieut. Governor, if his Behaviour should merit it, or on the family of the deceased Governor, or as an encouragement to the successor, for that it was not to be *returned* into the *Royal coffers* I think may be collected from the Terms in which the saving is expressed (to wit) not for his Majesty's *use* but for his *Disposal*. We find no Reservation of any share of the *Perquisites* or *Emoluments*; nor indeed could it be expected; for they must have belonged to the Governor in chief, or to the commander in chief who officiated in his absence. And in neither case could a Prince, who was the Patron

of Liberty, have thought fit to reserve any Interest where he had no precedent Right or Foundation for a claim. Therefore neither Countenancing nor Discouraging the Pretensions of the Governor in chief to the Moiety of the Perquisites and Emoluments, not secured to the Lieut. Governor or the President of the Council, he left them to be disposed of as former usage or custom might determine.

It is humbly submitted to your Lordship whether this is not *thus* far a fair and rational construction of this pretended Establishment—Indeed at the best it is very inaccurate and defective, but on the sense contended for by the Complainant, I fear it would be palpably unjust.

Whatever it may be thought originally to have signified, many reasons concur to persuade us that it cannot be the *present Establishment*. So unintelligible is it that the very misunderstandings it might occasion, would have been a sufficient inducement to abolish it. Besides it is altogether unsuitable to the condition of a colony whose Government is not supported out of the *King's Treasury* but by *annual grants of the People*. It *must* therefore have become subject to exception and alteration. A slight review of the standing article of the Royal Instruction for the support of Government which the Complainant himself hath furnished, will show how *essentially* and *clearly* this hath been effected.

And the first thing *remarkable* is that the Instruction has in view the same general object as the Declaration—*Providing for the support of Government*. This is manifest from the Preamble “Whereas we are willing to provide for the support of the Government of the said Province by setting apart a sufficient allowance to such as shall be our Governor, Lieut. Governor, Commander in chief or President of our Council, residing for the time being within the same.”

Here we find the Royal care and Authority employed to form a *complete Regulation* for the support of

Government, independent of, and unconnected with the acts or Declarations of former Princes—Surely then it *must* supercede and annul King Williams Declaration, *even* had it been liable to no other objection. How *can* it exist, when all succeeding Monarchs, as well as his present majesty have thought proper to *interpose* and *explicitly* to reveal their Royal Will and pleasure on the same subject.

Let us next consider of what it is his Majesty disposes, as it follows the above preamble. "Our Royal Will and Pleasure therefore is that when it shall happen that you shall be absent from *New York* one full moiety of the Salary, and of all *Perquisites* and *Emoluments* whatsoever which would *otherwise* become due unto *you* shall during the Time of your Absence, be paid and satisfied unto such Governor Lieut. Governor, Commander in chief or President of the Council who shall be resident upon the place for the time being."

Greatly as it might serve to enlighten us, the nature of this argument forbids a recourse to the remaining part of the Instruction, because it is set forth in the Bill. Thus much is however evident, that the Distribution extends to nothing more than the Profits of administration which might become due to *Sir Henry Moore* during his absence from *New York* without any Reservation in favor of the Crown, without any Declaration in case of vacancy in the office of Chief Governor by *Death*, without any Trust either *express* or *presumptive* on the part of the Lieut. Governor.

How essentially different is this Instruction from King Williams Declaration! How groundless the Complainants suggestion which is the Basis of the Bill, "That his present Majesty, and all his royal Progenitors, have in all their Instructions since given to the Governors in Chief directed according to the form and effect of that Declaration."

My Lord, I should be wanting in point of duty to the Lieut. Governor if I did not in this place make some enquiry into the Legal Operation of this instruction.

Indeed this work is in a great measure anticipated, by our Reasons in support of the first Cause of Demurrer.

What we have there offered with respect to *King William's Declaration* is equally applicable to the Instruction. We shall not waste the time in unnecessary Repetitions, but justified by the established maxim, *Nihil aliud potest Rex, quam quod jure potest*. I beg leave to say that what may have been his Majesty's Intention is *one* thing; it is *another* thing how far obedience ought to be enjoined by the Decree of the highest court of Judicature. It is not sufficient to discover the Will, but it is the *Right* of the Prince *only*, which can endanger the Defendant's acquisitions in the Discharge of his office. Nor should he be prejudiced by partial maxims of Policy or speculative Distinctions, which may be thought to have obtained for the convenience of Government: Altho' from motives of Prudence or ambition they may sometimes have been submitted to in this or that Province. We have the pleasure of being assured, that before your Lordship we shall preserve our *Birthright*—The Privilege of being Tried by the ordinary Rules of Equity and Justice which prevail in all other cases of Property.

If the Crown has been induced to countenance a Measure in itself *unreasonable or injurious*, it does not follow, sacred as is the authority, that it is *Lawful*. So far from it, that it would be the most unpardonable disrespect to the Common Parent of his People, even to impute it to his *royal Intention*, who can neither *do* nor *mean* a wrong: but as we have already remarked, it is to be ascrib'd to its proper source the *Error* or the *Inadvertence* of his Minister.

Let it then appear to your Lordship that the Salary and Perquisites in Question are by some *known Rule of Law* vested in the King. It can be no presumption to ask for this as an indispensable Pre-requisite to a *Power of Disposing* or a *Right of Recovery*: We call on the Council for the Crown for their Authorities. We humbly rely, that unless some adjudication, some

solid principle can be shewn, this suit will not be supported.

But we have the satisfaction to observe that our gracious sovereign, by this Instruction, neither claims nor intimates *any Thing to be his own*; on the contrary He expressly declares that the Salary and Emoluments which are the objects of his Royal Distribution are such as should become due not to *his Majesty*, but to Sir Henry Moore during his absence from New York.

Judging us then by the very evidence which is brought for our Conviction, and taking up the Instruction in its plain and obvious sense the claim, instead of *receiving strength*, must prove the more *precarious* and *unstable*. For what is it that has vested the right of Sir Henry M. (if any lie had) in the Crown? Surely it is too absurd to suppose that an Interest can be derived from so remote a fountain: but if it was *possible* to support the principle, it would be far from assisting the Complainant. For we humbly conceive, that in case of *Absence* (the only contingency the King has provided for) and much less of *Death* (the point really in debate) none of the Profit of Administration, as our Government is administered and provided for, could belong to the Governor in chief, the whole being vested in him who sustains the Burden of the office.

If therefore a Lieut. Governor is under no *other* obligation, a compliance with the Direction is not of *Necessity* but of *Choice*. It cannot with submission be *enjoined by Law*, but derives all its influence from a *voluntary concession and Acquiescence*.

Let it not however be objected that on this principle the Instruction is a *dead Letter*, for should the fear of his Majesty's *Displeasure* make no impression, the Power of *Suspension* which is lodged with the Governor in chief, would prove an effectual Motive to obedience while the Royal Intimation would justify the Gov.^r in exacting according to his own sense of its import, a *formal contract* to carry it into *full execution*. Nor is this a new Doctrine, or an uncommon expedient, for it

is not long since that Gov.^r Monckton, being appointed to the command of the armament against Martinique, embraced it as a *necessary security*, for half of the profits of the Administration which might arise in his absence, and this unless I am misinformed by the advice of an able Council whose name is to the Bill.

But to dwell no longer on an objection which can require no farther Elucidation, is it not very strange that the Bill should owe all its Energy to a conjecture that the Instruction adopts and confirms King Williams Declaration. Except that in the absence of a Governor in Chief *both* of them require that the Commander in Chief shall enjoy one half of the salary Perquisites & Emoluments, we can discover not the least similitude, the most distant connection; and must it follow that because *in one single Instance*, they speak the same Language, the Defendant can be entitled to nothing more *at any event*? Because it is not expressly declared that when the office of Governor in Chief becomes vacant, he who exercises the administration shall receive *all the advantage* that therefore his Majesty is intitled to the *one half*, Because the King has not secured by his royal Instructions what wanted no security, nor disposed of that over which he had no power, it is to be inferr'd that it is reserved for his Majesty's Benefit.

To support this ingenious system we must renounce the use of Language, and presuppose Terms, which convey distinct Ideas, to be Synonymous.

We must maintain an *absence* from *New York* to be a *natural Death*. We must suppose that the *Salary*, *Perquisites* and *Emoluments* in question became due to Sir Henry Moore after he had retired to the silent Grave. We must affirm these three Terms, however different in *Ætimology* and Import to be equivalent and descriptive of the same identical object. We must suppose that what an officer gains by his Labour, or in Recompence for his services, does not become *his* property, but is a Tribute to his *Prince*, for whom he is only a Bailiff; The honour of the service being a

competent Reward.—We must be capable of conceiving that an obsolete Edict of King William's which uncommunicated and uninforced, has for upwards of seventy years been shut up in the Treasury, is indu'd with the resistless Energy of Law. And what is still worse, We must suppose that the Best of Kings, who for the Ease of his British Subjects has freely relinquished a considerable share of his proper Revenue, condescends against the voice of reason and Equity, to secure to himself one half of the Emoluments of an American Government, which have hitherto seldom proved adequate to the Expences of his Governors.

Embarrassed with so many Difficulties, We shall leave it to abler Casuists to reconcile the Declaration and Instructions and to support the validity of either in the sense in which they are expounded—But, perhaps, this is a task which may bid Defiance even to the abilities of the Council for the Crown.

Having thus considered the first Topic of Argument, the Defects of his majesty's Title, and therein we hope maintained our first five Causes of Demurrer, we proceed as the next general Head to enquire

II. Whether if these Objections should be overruled, a sufficient Authority, derived from his Majesty, is shewn to compell an Account or justify a Decree.

And this leads us to another Passage of our Defence (to wit) “And for further Cause of Demurrer this Defendant sheweth and is advised that there is not any Matter or Thing set forth in the said Bill whereby it doth or can appear that our said now Lord the King hath disposed of, or appropriated, the moiety of the Salary Perquisites or Emoluments in Question in this suit; if any Right or Title thereto his Majesty hath; Or whereby his Lordship the present Governor in Chief, or any other Person whomsoever is or can be authorized to receive or sue for the same, or to acquit or discharge this Defendant therefrom was he therewith chargeable wherefore if this Defendant is so chargeable he may be vexed and drawn again into

Controversy for the same matter, by such Person as may hereafter lawfully be authorized by his Majesty for that Purpose."

My Lord it is evident that this suit is not set on foot in the usual Course: by the ordinary officer intrusted here with the Receipt of his Majesty's Revenue. The Right if any, arising on a casualty, the Death of Sir Henry Moore, and being grounded on a special Reservation rather of an authority to dispose than an actual Interest, it was foreseen in England that it could not properly fall within his Province: But demanded a special Grant or appointment, without which a claim could not be justified or the Defendant acquitted. The Complainant sensible of this truth accordingly makes it a foundation of the Bill "That his Majesty hath signified his Royal Will and pleasure, that the money in Question be accounted for and paid to your Lordship of which he alledges the Defendant hath had due notice." He has indeed thought proper to conceal the Instrument by which his Majesty's Pleasure is communicated, most probably from a conviction that a Letter from the Earl of Hillsborough however elevated his Rank and Employment is not in this case a legal Warrant. Hence arises the most satisfactory proof, by appealing to the Bill itself, that the Kings interposition is essential, and that the Claim cannot otherwise be maintained; For, that necessity alone could have induced the Council for the Crown to venture on such tender ground, will hardly be doubted. But we humbly insist that the authority ought to have been produced or at least substantially specified and explained. That an opportunity might be given to examine and inquire into its Authenticity, And to the Defect and Omission in this Respect which we rely upon as absolutely fatal, the last cause of Demurrer alludes.

My Lord this is not a refined and . . . exception, it is *in itself* palpable and obvious, and in its consequences of the utmost Moment to the Defendant. He

is represented in the Bill as the King's Trustee & Receiver, in Virtue of the Royal Commission & Instruction and of an Office which he still sustains. In that capacity avowedly he is charged and called to account Surely then it is natural to enquire who is appointed, and by what means to controul and supercede this Trust; and if the authority should prove feeble and groundless, he must be entitled to avail himself of its insufficiency and to be dismissed without farther trouble. For on what principle can he be Prosecuted or compelled to account when none may be empowered to give him an Acquittal if contrary to our expectation he should be chargeable.

We need not at present Labour to establish an objection of itself so clear, especially since the nature of the Power is well known to your Lordship, to whom he is supposed to be, accountable. It is necessary however, to explain the Law on the subject, and I think it no presumption to affirm, that if the money in Question is demanded in virtue of a Letter from the Secretary of State, uninforced at least by the privy Seal, it must be altogether incompetent for the purpose.

The cases I shall offer are so explicit that they require no Elucidation—

(11 Co. 92.) “In the Earl of Devonshire's Case it was resolved that every Warrant of the Queen herself to issue her Treasure is not sufficient for the Queens Warrant by Word of Mouth; or which is more the Queens Warrant in writing under her Privy Signet is not sufficient and this appears by a judgment of the Exchequer in Petitions Chase, Hill 1 E 4 when such warrant under the Privy Signet was disallowed And yet in some cases the Law takes notice of the Privy Signet, as where the King prohibits any one to pass out of the Realm. *But the Warrant which is sufficient in Law to issue the Kings Treasure ought to be under the Great Seal or the Privy Seal.*”

It will perhaps be urged that altho' this is the Rule in issuing Monies out of the Treasury, it may not fol-

low that the Kings Debts cannot be transferred or discharged under a less authority. It is therefore proper to shew that the Law is the same in both respects. (Bro. Prerog 183 Fn 6) In Etherington's Case it was held that the King may discharge a Recognizance under the privy seal tho' even that was doubted.

(Ibid 183 G. n 3) But a discharge of a Debt due to the King under the privy Signet is expressly determined to be insufficient.

Fruitless must it be to multiply authorities on a point which I think Mr. Attorney, who so well understands the Crown Law, cannot dispute. I shall therefore only add a Word or two by way of application.

If *the King himself* could not by privy signet discharge the Defendant from this Debt, it must clearly follow that *much less* can his Trustee who derives his authority under a sanction *vastly inferior*.

Your Lordship then being unqualified to indemnify him without suit, had he been ever so willing to acquiesce, I confess I am at a loss for *any Ground* on which a Decree to compell an obedience to his Majesty's Pleasure, in this Instance, unwarrantably intimated can be justified—Would it not imply that the Power of the Chancery might be extended to subvert the plainest Rules of Law, to transfer the possession of the King's Property contrary to the Order, which the Constitution, for public security, has pointed out; and place it into hands which have no legal Right to Receive it.

Submitting these Remarks in support of our second general Head: "That no sufficient Authority, derived from the Crown is shewn to compell an account or justify a Decree," We proceed to enquire

III. "Whether more being Demanded, than is warranted by the Claim as set forth by the Complainant, the Bill on that account ought not so far to be dismissed."

And this brings us to the next article of our Defence (to wit) "The Defendant for further Cause of Demurrer sheweth, that by the said Bill he, this Defendant

is required to account for one Moiety of the Salary Perquisites & Emoluments which he hath received or secured, from the *Time of the Death of Sir Henry Moore*, until the Day of the arrival of his said Lordship within this Government when according to the Complainants own shewing, no Title Claim or Interest is pretended or set up in the said Bill for his Majesty, to any Salary Perquisites or Emoluments, which have been received by or accrued to this Defendant between the Time of the Death of the said Sir Henry Moore, and the date of the Commission of his Lordship the present Governor in chief, but to the moiety of such only as may have been received by or accrued to this Defendant, from the date of his Lordships Commission untill his arrival within this Government as aforesaid."

That we have neither misunderstood or misrepresented the Bill will appear from a Review of the Passages upon which this cause of Demurrer is grounded. And they are to this effect "That from the second day of January last, which is the date of your Lordships Commission, untill the eighteenth Day of October last when your Lordship actually arrived the Defendant continued as Lieut. Governor to exercise the administration. And by virtue thereof during *the whole Time last above mentioned* hath received for the use of his Majesty and himself in the proportions aforesaid, the Salary allotted for the exercise of the Administration *between the Days last above mentioned*, and divers Perquisites and Emoluments accruing and arising thereby, between *the Days last above mentioned*, to a very considerable amount, and hath taken securities for the Payment of other Parts; and with part of the Money hath purchased divers Tracts of Land; and in lieu of other Parts of the said Salary, Perquisites and Emoluments accruing as aforesaid, between *the Days last above mentioned*, hath taken in the name of himself and others divers large Tracts of Land. And further for divers considerations hath neglected to receive and hath remitted other parts of the said Perquisites & Emoluments,

accruing and arising as aforesaid, *between the Days last above mentioned* to a very considerable amount for one full moiety of all and singular which said Salary Emoluments and Perquisites &c the said Cadwallader Colden ought to account and satisfy to our said Lord the King."

Hence it is manifest that the present Title and Demand is precisely confined to the Salary, Perquisites and Emoluments which have arisen between the Date of your Lordships Commission and your arrival; during which particular period only, the Defendant is charged with the Receipt and other Transactions, which are the subject of the Complaint. Accordingly the relief and Satisfaction which are sought, are summed up in the close of the Bill in Terms which admit of no doubt or uncertainty (to wit) That his Majesty may be really and truly answered and paid for and satisfied of one full Moiety of all and singular the said Salary Perquisites and Emoluments whatsoever arising as aforesaid "*between the Times aforesaid* And yet is it inconsistently required" that the Defendant may upon his Corporal Oath set forth and Discover whether any & what hath been received by him as Lieut. Governor and Commander in chief of this Province as Salary, *since the Death of the said Sir Henry Moore.*"

That the Bill is in this Instance faulty, seems so evident that I little expected the trouble of offering Reasons to evince it. To what end is an account required of the Profits of Administration between the Death of Sir Henry Moore and the Date of your Lordships Commission? Far from making them a Motive of this Suit, or a Ground for the Decree, it is not even suggested that any Thing in that interval arose or came to the hands of the Defendant. He suspects that this inquiry is intended to promote a purpose, very foreign from what my Lord Hillsborough has represented as his Majesty's Pleasure and beyond the present Controversy; but it is more material to shew it to be improper and justly exceptionable.

We agree that the Chancery is not like the Common Law, tied down to rigorous Forms and precision in Pleadings. However in imitation of the Civil Law on which its Practice is engrafted, it admits of *declinatory* and *dilatory* as well as peremptory Exceptions. *Ante Litem Contestatam* under one or other of which Advantage may be taken of every substantial Defect of a Bill. Thus it is a Rule that, a Defendant shall not be exposed to any *unjust vexation*. For which Reason tho' he hath no farther Cause of Defence, he may Demur for want of PROPER PARTIES: least he should be aggrieved by a Double Prosecution. It is another Rule that he shall not be loaded with *unnecessary Expence*, on this Principle he may demur if the Bill is complicated with matters in which he is not charged to have an Agency or connection. Nay so tender is Equity, that he shall not be compelled to answer Interrogatories which do not properly flow from the subject Matter of the Complaint.

Far greater Reasons is there then that the Lt. Governor should not be obliged to state an account of Monies which he is not charged with having received, which are not now claim'd or Demanded and which if Discovered could not be included or affected by the Decree. This must be unconscionable, because it would put him to the trouble and expence without any tendency to the furtherance of Justice—to the merits of the controversy or the Information of the Court. On the contrary it would incumber the Proceedings and your Lordship with what is altogether foreign and impertinent. The present Enquiry as we have seen comprehending nothing but what the Defendant may have received between *the Date of your Lordship's Commission and your arrival*. Nor is it to be admitted that the Court can *ex officio* supply the Complainants Defects, and extend a Remedy to what is not the immediate Object of his Claim; for it is a Maxim in Equity that he shall be relieved according to his own prayer and cannot recover more than he has demanded.

Attorney General vs. Jeanes *Hardw. Rep.* 355 In all cases except for the Regulation of Charities, the Decree must be founded on the Prayer of the Plaintiffs Bill.

I shall not have recourse to further Authorities on a simple Point of Practice, nor enlarge on a Defect which appears to me so obvious, that the bare mention of it, is sufficient to shew that this Cause of Demurrer is substantially and well grounded.

I proceed therefore to the next in order (to wit) "The Defendant for further Cause of Demurrer sheweth that by the said Bill he is called to account for the moiety of the *Perquisites and Emoluments* as well as of the *Salary*, accrued to, or received or secured by him from the Time of the Death of the said Sir Henry Moore untill the Day of the arrival of his Lordship within this Government as aforesaid, when according to the Complainants own shewing, his said late Majesty King William the third by the said pretended Declaration which is alledged in the said Bill to be the Regulation & establishment in the premises did in fact reserve no more than the disposal of one half of the *Salary* from the date of the Commission of such Governour in Chief to the Time of his arrival at the Place aforesaid."

We have already shewn My Lord that King William's Declaration is by no means adopted or confirmed by any subsequent Instruction; that it stands single and unsupported; that it is alone the Basis of the present Claim, that by the Demise of the King it became extinct, and void of authority or effect. But least a contrary Opinion might prevail this Cause of Demurrer is added to give us an opportunity of examining it in a more limited view; of insisting on any reasonable Construction; it can have no Relation to *Perquisites or Emoluments*.

If the Power of the Crown was unquestionable—if reason and Justice had not opposed a more enlarged Reservation—if the different circumstances of the

Revenue *at* and *since* the Period when it was form'd had not clearly explain'd the Royal Intention—in short, if all the obstacles We have suggested in the course of this Argument, had not conspired to refute the Interpretation asserted in the Bill; We humbly conceive that Judging the Instrument from itself without the assistance of foreign Aid, the most it can be applied to is the *Salary*.

I own I cannot suspect that the minister in digesting this Declaration, had no Idea of the difference between *Salary* and *Perquisites*: and yet if we confine ourselves to his own expressions, a fair Construction would justify the charge.

In the first clause We find it directed that the Moiety of the *Salary and of all Perquisites and Emoluments*, which would otherwise become due or were allotted to the Governor in Chief, be paid and satisfied to the Lieut Governor or Commander in Chief. In the second it is enjoined that said *half salary* should not be diverted from him. So that comparing the two clauses together what is termed *Salary Perquisites and Emoluments* in the *first* is in the other explained to be *Salary* alone. In the third the Chief Governor is prohibited from intermeddling with the said *half salary, Perquisites or Emoluments*. In the last his Majesty reserves to himself the Disposal of the other Moiety of the said *Salary*.

If then we permit the Instrument to speak for itself *Salary* is the subject matter and *Perquisites and Emoluments* mere expletives improperly added as Equivalent Words to convey the same Idea, and according to this Construction the *Salary* was the only Thing intended either to be disposed of or reserv'd.

But to avoid this inconsistency, and free the officer from such ignorance as his high Employment doubtless exempted him from, We must conclude that he understood the force of Language and the distinction between *Salary* and *Perquisites or Emoluments*; and then the Declaration will run thus: (the first clause) That one

half of the Salary and of all Perquisites and Emoluments (that is of all advantages of the Administration) be allotted to him who exercises it in the absence of the Chief Governor (the second) must be considered as a Caution to those who had the care of the Kings Revenue, from which the Salary was then supplied, to be watchfull that the said half *salary* should not on any account be diverted from him (the third) as an injunction on the Chief Governor, by no means to intermeddle either with *that* or the *half* of the Perquisites or Emoluments so allotted (the fourth) the reservation to his Majesty of the other half of the said *Salary*, which considering that it was the effect of his Royal Bounty, was altogether justifiable.

But to make way for the Claim, we must reverse the maxim to *omne majus trahit ad se minus*, and contrary to all Rule suppose the *Salary*, tho simply mentioned in the last Clause, necessarily includes and draws along with it *Perquisites and Emoluments* which are not only of a Different but of a broader and more extensive Import and repeatedly enumerated in the preceding Paragraph.

We therefore humbly appeal to your Lordship whether the above Explanation does not rescue the Instrument from Absurdity, and give sense and weight to every part? Whether it does not account for the want of such Reservation in latter Instructions, when it became notorious that the Salary was provided for, not out of the royal Treasury, but by the immediate gift of the People? Surely on any other Principle it is hard to conceive with what view the second article which has otherwise no meaning at all was crowded into so concise a Declaration! Why the pretended Establishment has for so many years been disregarded and buried in oblivion? Why either before or since President Van Dam's administration no claim of this nature hath been interposed for the Crown? Why under Circumstances similar to the present in 1702 Lord Cornbury was not authorized to enforce it against

Lieut. Governor Nanfan, Governor Hunter against Lieut. Gov^r Ingoldsby in 1710, Governor Clinton against Lieut. Gov^r Clarke in 1743. And in Later Times, why Sir Charles Hardy was not authorized to enforce it against Lieut Gov^r Delancey, or General Monckton or Sir Henry Moore against the Defendant? Why the single Instance which happened to M^r Van Dam in 1732 gave such universal alarm and filled the Province with Confusion and Uproar? In short why Governor Littleton, tho he applied for it when he was not long since appointed to preside at Jamaica, was opposed and frustrated, and Sir Henry Moore, the Lieut Governor, permitted quietly to enjoy the whole Profits of that lucrative Employment.

I hope after proceeding this Length, I shall not be charged with presumption for intimating that in the hurry of public Business, the present Minister may have furnished the direction thro' Inadvertence and that however sacred the authority with which it is impressed, it cannot give a legal Sanction to an Establishment, as we conceive, not only misunderstood but lifeless and obsolete, both from non-user here, and the want of Imitation or of adoption by succeeding Princes.

And are all these objections to be removed—all these Difficulties obviated by telling us that because it is registered at the Treasury, however antiquated, it is an *Establishment for the Plantation Governments*? That it must be submitted to; a Trust for the Crown tho unthought of and uncommunicated, being necessarily involved in the acceptance of the administration? And this too in manifest contradiction to the express Terms of the Royal Commission and Instructions as stated in the Bill? for it is worthy of remark that it is there alleged that the Defendant undertook whatever had been incumbent on his predecessor *Sir Henry Moore*, and yet his Obligations are represented to consist in the Duties comprised in his Commission and Instructions, and in what might be enjoined by such *further* Powers Instructions and Authorities as should at any Time

after be granted or appointed under the signet or sign Manual or by order in privy Council." Thus instead of being subject to *former* Instructions or Declarations he was evidently confined and bound to yield Obedience only to the *present* and the future.

Indeed it is the singular Misfortune of this Claim that the very foundation on which it is attempted to be raised, plainly Discountenances & excludes the supposition of any Trust for the Benefit of his Majesty, either expressed or implied.

Dismissing therefore this point with these Remarks, we are at length arrived at the last Objection (to wit)

"For further Cause of Demurrer this Defendant sheweth that he is requir'd by the said Bill to discover and set forth how much of the Salary Perquisites & Emoluments, for which he is called to Account, he hath taken and received security for, whether real or personal; what Lands or other things he hath taken in lieu of any sums of money arising therefrom. What other Lands have been purchased by him, or any Person, or whom, for himself or others, and for whom, with any or how much of any Part of the said Salary Perquisites and Emoluments: And how much was agreed to be paid for such Lands or other Things respectively: Whereas, according to the Complainants own shewing this Defendant is required, and such is the scope of the Bill to pay & satisfy one full Moiety of the Salary Perquisites and Emoluments accruing between the Times in this Bill mentioned, and not to assign such Securities if taken, or to convey such Land if purchased or any part thereof for the use of his Majesty. And this Defendant is therefore advised, that he ought not to be called in Question touching such Securities or Purchases or compelled to render any account concerning the Same. This Defendant conceiving a Discovery thereof to be altogether foreign and impertinent; and sought after with no other view than to vex and injure this Defendant by representing him as a fraudulent bankrupt.

My Lord I take it to be an indisputable Maxim that no Trustee or Receiver has a Right to traffic with the property of his Principal. To whatever purpose he may convert it, he must be chargeable with the money itself. If indeed it should appear that he has not sufficient left to repair the Injury, upon a suggestion of Fraud and Missapplication, perhaps Equity might interpose and follow the Thing purchased to the hands of the clandestine Trustee in whom it might be vested to elude the Ordinary Course of Justice. I should also think a Trustee hath as little Right to take security for the Profits of an office unless by virtue of express Authority, for otherwise it is his duty to insist upon payment. There seems to be much stronger Reasons why a Factor may deal for his Employer on credit: and yet has it frequently been determined "that he who has only a bare authority to sell cannot trust, but ought to receive the Money presently on the Sale." (I Butot 104. Mol 436-53)

My Lord Holt states this Distinction "Every Factor" says he "of common Right is to sell for ready money: but if he be a factor in a sort of dealing or Trade, where the usage is for Factors to sell on Trust there if he sells to a Person of good Credit, who afterwards becomes insolvent, the Factor is discharged. But if their be no such Usage, and upon a general authority to sell he does it upon Trust he is chargeable." (12 Mod. 514)

The present case is clearly within the reason of these authorities, it is notorious that there is no usage to give Credit for the Profits of the administration. For every service perform'd by the Governor he is paid in hand, throughout all the various Departments of his office. If then the Lieut. Governor *could* be considered in the Light of a Receiver or Trustee: If he has taken the securities suggested in the Bill, it is at *his own* risk, he has exceeded his authority's and must be responsible even should the Debtors prove insolvent. It is therefore idle to inquire into the nature of these Securities. But not contented with a Discovery, which if submitted

to could have had no sort of Influence on the Decree; the Bill proceeds a much greater Length, demanding an account of what Lands the Defendant may have *purchased for himself* or others with any of the profits of administration—to what end is this exacted or can it contribute? Will it be pretended that the Crown is interested and can command a share of such Purchase, because the Defendant may have applied in payment part of the Salary or Perquisites? According to this Doctrine because he was the Kings Lieut. Governor, he could become vested with no separate Estate; but has the honour to hold all he may have acquired in *Common* with his Majesty. The Relief therefore is in this Instance certainly too broad; grasping at what is unconceivable, useless and impertinent. I hope the Lieut Gov^r. is mistaken in suspecting it to have proceeded from a Design to represent him to your Lordship in the character of a fraudulent Bankrupt. I must think however it displays an uncommon Thirst of Curiosity which cannot be justified and ought not to be indulged. And I therefore conclude that the exception to the Bill is solid and well taken.

My Lord, we have now gone through the three heads of our argument, and in some Method endeavour'd to establish the several Causes of Demurrer. We have considered the Power of the Crown to assume a share of the Perquisites and Emoluments of Administration, and have hinted the Mischiefs and inconveniences of which it might be productive. Not by way of *Censure*; for we think this Declaration incapable of any such inference; but to defeat the Complainants construction by holding up its repugnance to constitutional Principles. We have shewn that no Reservation in favour of King Williams Successors is provided by or can be collected from, the pretended establishment that on his Demise it became extinct and of no validity. We have compared it with subsequent and the late Instructions. Their legal operation and Remoteness from the present Demand, we have pointed out. We

have enquired into the authorities by which this suit is instituted and found it to be incompetent. We have examined the objections to the Bill itself, as extending to the profits of the Administration between Sir Henry Moore's death and the date of your Lordship's commission, which are not now claimed—to Perquisites & Emoluments when even King Williams Declaration only reached the Salary—to securities which ought not to be assign'd—to the Purchase of Lands in which at any event his Majesty can have no interest. We have insisted that the relief sought after, in these Instances is unprecedented and unconscionable, since it would expose the Lieut. Governor to Trouble and Expense without any Tendency to the Merits of the Controversy or the furtherance of Justice. How far we have succeeded is most humbly submitted to your Lordships Judgment.

Upon the whole, if the Kings Prerogative to authorize an establishment in the sense contended for is questionable—If the Declaration contains no Reservation in favour of succeeding Princes—If it has no Relation to Perquisites and Emoluments—If even with respect to the Salary it was grounded on the Equity of its proceeding from the Royal Bounty—If by the Demise of King William it became extinct—If on the alteration of the provincial Revenue and the mode of Providing the support of Government the Ground of the Reservation was abolished—If it never was adopted by succeeding Princes—If on the Contrary their Instructions on the subject are explicit and yet communicated no Trust for the King's benefit—If they do not in this Respect, extend to the Incident of a Vacancy by the Death of the Chief Governor—In either of these cases which are stated for your Lordships Consideration, We presume that the present claim must be defeated: and that the Lieut. Governor ought to be quieted in the advantages which have arisen from his late accession to the Administration.

We are sensible how much we have trespassed upon

your Lordship's Time—how much we stand in need of Indulgence ; but the nature of the Debate which obliges us to descend to every Objection, its Novelty, and its importance will we trust in some Measure plead our Excuse.

TO ARTHUR MAIRS, ESQ.

By the Duke Packet.

Spring Hill, March 9th, 1771.

SIR,

My last to you was of the 17th January. Inclosed is the Copy of Mr. Duane's Argument which I then informed you he had delivered on the 10th. The Attorney General and M^r. Smith both Argued in support of the Right set up for the Crown on the 7th of last month and M^r Duane closed the argument with a Reply on my Part last Thursday. We think it easy to discover in the Attorney Generals Argument, that it was a work of necessity not of choice—an endeavour to vindicate Measures and Principles which himself thinks unjust and unsupportable. But M^r Smith has entered into the cause with all his soul—he is an able Disputant, and has an easiness of Principles that allows him to affirm deny or Pervert any thing with a confidence sufficient to deceive the unwary—Of this his argument affords ample Testimony. M^r Duane in his closing argument has answered him fully ; has refuted every Principle, every point of Law or Fact, by which he endeavours to support the Title of the Crown to the money demanded, and has most powerfully strengthened the arguments by which he formerly maintained the sole Right to be in me. The arguments have been attended by the most respectable Gentlemen in Town ; I have not heard of one who does not allow that the Defence we have made is solid and conclusive—Every argument, matter of law

or Fact advanced by Smith, fairly refuted—Yet, hard Case! no man doubts but that Lord Dunmore will overrule the Demurrer—for no man doubts that he is sitting to Judge in his own Cause—he has taken a week for consideration; so that next Thursday his Decree upon the Demurrer will be known. If against me I shall enter an Appeal to the King in Privy Council. Many very obvious Reasons might be urged why in this case the Relief should not be in that Tribunal, but we fear the appeal may be lost, if made to any other Court. However this is a matter which you will please to Lay before my Council for their immediate Consultation; whether upon petition the King may not refer the Appeal to the Judges If they should think this a proper step I must beg they will be prepared to proceed as soon as you receive my Appeal, which I make no doubt will be by the next Packet—we find in the Books that upon Petition Appeals from the Decrees of the Chancellor of the Exchequer have been Referred to the Judges, as the proper Resort, when the Controversy has been between subject & subject. I am as the action is laid unhappily involved in a Controversy with the Crown, which affords weighty Reasons for a reference to the Judges.

It has been said that Lord Dunmore intended to possess himself of all the Arguments and transmit them to England for advice before he gave his Decree—I wish he may act with even that degree of Prudence. If he does not give a Decree next Thursday, I shall imagine it is so. He insisted upon taking Mr. Duane's last argument from him in Court altho told it was scarcely legible, and that a fair copy should be made as soon as possible; this must proceed either from a design of sending the papers Home by this Packet, or from the same spirit of impetuosity which has govern'd throughout this suit. I mention this, that my Council may be aware of whatever may happen.

I have not yet heard from you and wait with great Impatience for the arrival of the January Mail, by

which no doubt I shall hear from you, if not from the Gentlemen I hope you have retained for me.

In my last Letter I desired you would consult with my Council and take their Directions for making a carefull inspection of the Entry at the Treasury Office of King W^m Declaration, said to be originally entered there in 1697 or 1698—I repeat it now least that Letter may have miscarried. The Reason for desiring a careful inspection to be made is that I was inform'd many years agoe that the little word *of* had been inserted by a Clark, in the Instruction to the Governors—which directs that half of the Salary and of all Perquisites & Emoluments should be paid to the L^t Gov^r—that before this interpolation of the word *of* the Direction that one half of the Salary and all the Perquisites &c. should belong to the L^t Governour when exercising the administration—You will readilly see the great Importance of the Inquiry I desire to be made at the Treasury office—this single Word *of*, in that one instance is the sole Basis of the Demand made upon me—Should you discover that it is not in the original or that it appears to have been interpolated the suit on their own Principles must fall to the ground; this can only be discovered by a careful inspection of the original Entry at the Treasury.

Whatever I write to you I expect will be fully laid before my Council & Communicated to M^r Johnson, if he has engaged with you in the Agency for me.

TO D^r W^m SAM^l JOHNSON, LONDON.

New York, April 2^d 1771

DEAR SIR,

The judicious steps you took in my affairs upon my Letters of Nov^r 12th gives me the greatest reason to think myself happy in your assistance: nothing could have been done better had I been present to Advise.

My Letters to M^r Mairs (to whom I have only wrote desiring him to communicate them to you) of Decem^r 6th Jan^y 17th March 9th contain a particular Detail of the proceedings in my Cause here. In the last I inform'd him that M^r Duane having closed the Argument upon the Demurrer the preceding Thursday, L^d Dunmore had appointed the following Thursday to give his Decree. On that Day he deferred it for a fortnight Longer & immediately after called in the four Judges of the Supreme Court and Laid the Whole Proceedings before them for their opinion. This Measure gives me great satisfaction. It proceeded from the advice of some Person who was truly concern'd for his Lordships Character and who ever he is Deserves applause. We only know that M^r Smith had never any part in it, nor an opportunity of oversetting it. The judges have the papers still under Consideration they are Lengthy, and the Judges are obliged to go through them separately which takes up Time. The Cause now Lies in a Way very different from what it has before done, and I have great hopes will be determined with much less Trouble than There before expected. The voice of the People is that the Cause is so clear, the Judges must give their opinion in my favour. His Lordship Will certainly find it Not so clear a Cause for the Crown (or rather for himself) as he had conceiv'd it to be. Our Arguments made no manner of impression upon him. I believe he seldom alters his Opinion, but in this Case he will hardly Venture to give a Decree contrary to the Opinion of all the Judges. Should they disagree he may still follow his own Byas.

The affair being in this situation our proceedings must be suspended and I hope will not give much more trouble. However Sir as you tell me that you expect to leave London this Spring, I must beg you to think of some person to succeed you in the Agency for me with M^r Mayrs and mention him to M^r. Mayers that he may employ him in case there should be occasion I have no manner of Diffidence of M^r Mayrs but can

readily conceive that in his situation, it may not be convenient for him to be Active and it will be necessary to have some Person to do the active part.

You say that Lord Hillsborough wish'd I had let him know that I expected to keep the whole profits of my administration. I should as soon have thought it necessary to Inform him that I expected to keep every part of my Estate. His Lordship looks upon the money Demanded of me, to be so absolutely Lord Dunmore's property that he can have no ground to Desire him to give it up. Can Lord Hillsborough then quietly suffer the Suit to go on in the Kings Name, and the proprietor (by this fiction) Sitting Judge on his own Cause? Will not his Majestys Justice be impeached thro his Minister by such Conduct? Lord Hillsborough is pleased to Allow that I had formerly some Merit, but says some part of my conduct in my Last Administration gave uneasiness to Government.

His Lordship has not been pleased to point these out or Inform me of it. I am condemned & punished without even knowing the fault of which I am accused. Certain I am it never was in my power to do More & I never did more real servis to Government than in my Last Administration. Facts will speak and to them I trust. As to his Lordships proposal of an accommodation with Lord Dunmore it has never been in my power. The Att^y. G^l. received his Lordships Directions to file a Bill against me before I had the Least Reason to imagine he intended a suit. A man must be very Diffident of his right who proposes an Accommodation in such a Situation. I have the strongest conviction of my right, and that the Method of Proceeding against me is illegal and Oppressive. An Accommodation now cannot be propos'd.

Your friends here have sometimes been pleased with a Report that you was comeing out our Chief Justice. I wish you may have thought of it in Earnest. Mr. Horsmanden is very infirm and cannot hold out much longer if you have Reason to think you could obtain a

Mandamus for this office with the Sterling Salary—M^r Pratt had (£500) it would be worth your staying some Time longer in England it Would be very agreeable to many here to see you in that office—It is supposed that M^r. Smith is making Interest for it, but all moderate men dread his having so much power.

TO ARTHUR MAIRS, ESQ.

New York, April 2^d 1771.

DEAR SIR,

The Inclosed to D^r Johnson will inform you of an unexpected Event in the prosecution of Lord Dunmores suit against me greatly to my satisfaction, which must suspend our operations till the Issue is known, which will probably be next Thursday.

I am entirely satisfied with the manner in which you proposed to act for me, and am much obliged to you for undertaking it under Circumstances that must render it rather Inconvenient to you. I have strong Expectations that I shall not have occasion to give you much more trouble on this affair with Lord Dunmore; but in case of a Disagreement in the Opinion of the Judges his Lordship decreeing contrary to their opinion should render it still necessary for me to proceed to England I have desired D^r. Johnson should he quit England to procure a fit person to succeed him in the agency for me with you. This person should be one who can undertake the active part as Dr. Johnson has Done.

Please to present my most respectfull compliments to Sir Jeff Amherst. I am much obliged to him for the sentiments he is pleased to Express of me. I hate a Law Suit as much as he possibly can do, but it cannot always be avoided, Lord Dunmore commenced this suit in which I am now engaged more peremptorily than is ordinarily done between Creditors and Debtors

of any abilities and has since Driven it on with Vehemence.

You will please to satisfy Dr. Johnson handsomely for the Trouble he has had in my affairs before he Leaves England. I cannot give you a hint of the Quantum as I can have no Idea of the Trouble or Expense he may have sustained on my Account and therefore leave it entirely to you. If he is not in London when you Receive this you will open his Letter.

To D^r W^m SAM^l. JOHNSON.

New York, May 8th 1771.

DEAR SIR,

The Packet had so long a Passage that I did not receive your favour of February 5th 'till last week. In my former Letter I inform'd you that Mr. Duane had closed the arguments on the Demurrer the 7th of March, & that L^d Dunmore the week after had called in the four Judges of the Supreme Court to give their Opinion upon the Bill Demurrer & arguments. I have now the pleasure to inform you that the four Judges after a deliberate Consideration, did, about three weeks agoe, return their Opinions to his Lordship in writing that the Demurrer was good in all the essential Points—that the Crown could have no Right to any part of the Salary granted to me by the Legislature of the Province, or of the Emoluments which I had received, and that the sole right was in me. The concurrent opinion of four disinterested Men, two of them thought to be rather prejudiced against me, so fully in my favour, is the highest indication of the just right I had to withstand the Demand, and is a check his Lordship little expected. He has not held a court since he received the Judges Opinions, nor can we conjecture what he will now do. Before he had the Judges Opinions he was resolved to decree against me. He told the Judges it was a very

clear case, and that he did not desire their assistance from any difficulty he was under, but merely as a prudent Measure considering it might be thought that he was Interested. I am told he still thinks it as clear a case as before; if so, I do not know but he may notwithstanding the Judges opinions, Decree against me. He has received his Commission for Virginia, but says he does not intend going there till he has answers to letters he has wrote his friends to obtain Leave for him to keep this Government.

I am sensible of your attention to my affairs in having procured a solicitor. What is his name? If we had not such a capricious ignorant Lord to deal with, I should have no fears of any farther trouble, but from him and his Council M^r Smith I know not what to expect. At this time I have nothing further to communicate, but my hearty thanks for your good Services, assuring you that I am with affectionate Esteem Dear Sir, &c

TO ARTHUR MAIRS, ESQ.

New York, 8th May 1771.

DEAR SIR,

I have a kind Letter from Dr Johnson of Feby 5th by the last Packett, and am well pleased with the attention he shews to my Business, by haveing engaged a Solicitor in case one should be wanted; but the result of Lord Dunmore's calling in the four Judges of the Supreme Court for their Opinion, of which step I inform'd you in my last Letter, has been such that I think there cannot be much more occasion for my giving trouble to my Friends on this vexatious Suit. It is about three weeks since the Judges all concurred in an opinion totally in my favour, & against the Demand; since which his Lordship has taken no step—but I hear he is not satisfied.

It is said he does not intend going soon to the Gov^t

of Virginia, as he hopes to obtain leave to remain here— While he stays, and till something further is done in the Suit I must remain on my Guard, and keep the assistance ready which you have procured. I am, Dear Sir,

I hope you have taken care to satisfy Dr Johnson as I desired.

DAVID COLDEN TO ———.

N. Y. June 8th

SIR,

Yesterday my Father received an intimation that Lord Dunmore was preparing to send all the Papers relative to the Controversy between them to the Ministry, by a ship which sails Tomorrow. I came directly to Town, with my Fathers directions to transmit copies of the Judges Opinions to you by the same ship. I had occasion to wait on Lord Dunmore as soon as I came to Town. He of his own accord was pleased to tell me that he was sending all the Papers home, in order to receive the advice of the Ministry upon them, and that he should give no Decree till he had received that advice. He added, that notwithstanding the Judges opinion if he was now to give a Decree upon his own judgment, it must be against my Father.

You will please sir, to hand the inclosed Copies of the Opinions of the four Judges of our Supreme Court to Dr Johnson, or if he has left London to the Solicitor whom he has engaged for my Father, and desire him to wait on my Father's Council to inform them of the Measure now taken by Lord Dunmore. As the Matter cannot in this way lye judicially before any Board in England, but only for advice from the Ministry, or his Lordships friends, we do not see that any interposition can be made on our Part, but if the Council should be of a different Opinion as they may very probably be, being so much better acquainted with the

modes of Proceeding and what may be proper, my Father wishes them to take whatever steps may be most likely to give the Judges opinions and the Argument by which his Right is supported the greatest weight with whomever may have the consideration of the Papers sent home by Lord Dunmore. Among the Papers already transmitted to you is a copy of Mr Duanes first Argument for my Father—and we shall send a Copy of his closeing argument by a Gentleman who goes for London in eight or ten Days—it could not be got ready now and then supply any Thing that may be omitted in the very great hurry in which I am now obliged to write—

D. C.

TO THE EARL OF HILLSBOROUGH.

June 15th 1771.

MY LORD,

Had I nothing to offer your Lordship but from myself, I am too sensible how ineffectual it would be, to think of giving either your Lordship or myself the trouble But the Right upon which I have insisted that I am entitled to the whole Profits arising from the late administration of this Government by me, has received such a Confirmation from the unanimous Opinion of the four Judges of our Supreme Court, given at the Request of Lord Dunmore, who laid the whole Proceedings before them, that under this authority I presume what I now lay before your Lordship must have some weight.

Lord Dunmore told my Son, some Days ago, that he was then transmitting all the Papers relating to the Suit between the Crown & me, in order to receive the advice of his Majesty's Ministers upon them, that, notwithstanding the Opinion he had received from the Judges, if he was now to give a Decree, upon his Conscience according to the Oath he had taken, he must

give it against me: but that he should now wait and give his decree according to the advice or directions which he should receive from the Ministry.—Among the Papers his Lordship transmits, no doubt, my Lord you will have the Opinions of our Judges—I beg leave to set the most material Parts in one view. You will find the Judges agree my Lord in this general Opinion that the Crown can have no Right to any Part of the Salary Perquisites or Emoluments received by me in the administration of this Government—That the Demurrer to the Bill is well taken, and substantially supported by the arguments on my Part.

Mr. Justice Livingston & Mr. Justice Ludlow have been particular, & have given their Opinions upon every Point of the Demurrer: which your Lordship will find is that tho' the King might apportion any Salary given by him to his Governors, according to his Pleasure, yet the Salary granted to me Personally, by an act of the Legislature, the King can in no wise appropriate to his own use, or grant to another, and that on this Principle, that *the King can do nothing contrary to Law*. They declare that the Law considers all fees, which includes Perquisites & Emoluments, as Recompence due to the officer for his Labour, and not as a bounty bestowed by the King, who can not raise or Grant them; that being a Tallage on the subject—That the King would not reserve to himself Perquisites and Emoluments which never were his,—that as Fees do not proceed from the Crown, but are the mere Earnings of the officer, they can not be disposed of by the Crown neither can the King order the Subject to take only half of what is his just due—and that of established Fees & so of all others, the Party can not be deprived without an act of Parliament

In considering the supposition charged in the Bill of a Contract between the Crown and me, these Gentlemen are of Opinion, my Lord, that the Instruction to the Governors does not touch the present case, and that by the Declaration of King William no Part of the Per-

quisites and Emoluments is reserved to the Crown; the King can not therefore be intitled to them by an implied Contract. But in case this should be thought inconclusive, the Judges Enquire whether such a Contract may Lawfully be made, and declare it to be against Law—that such a Regulation would be void; the King haveing no Power to establish fees, much less to dispose of or reserve them.—That a Governor agreeing to give his Majesty a share of the Profits of his office, would be liable to the Penalty inflicted by statute on the Buyer of an office, which is no less than rendering his office void ab initio, and himself forever incapable of holding the same office for the future—that the King cannot dispence with this disability—and that such a sale of offices is *Finable*. It would be a hard Construction says Judge Livingston to render a Man guilty of so high a crime by Implication.

I am perswaded my Lord that his Majesty's Ministers need only be convinced of the justness of these opinions, to determine in exact Conformity—The Gentlemen who have given them are of abilities and great application. They have quoted the most established authorities on every Point; and Reason upon them in a manner that carries Conviction—Their Opinions are so consonant to natural Equity, of which every Man can & will Judge, that the People of the Province have universally expressed a high satisfaction in them, and unavoidably take sides upon it—The issue of this Cause is therefore of consequence as it must make an impression on the Minds of the People either favourable to Government, or very much other wise, especially in the Course Lord Dunmore has now put it.

P.S. My Lord, as it is possible Lord Dunmore may not think it necessary to send Home the Judges Opinions, I have it but to add, to the abstract I have given of the principal Points, by incloseing Copies of the Opinions at large, that your Lordships may have the fullest information.

DAVID COLDEN TO ARTHUR MAIRS ESQ^r

June 18

I wrote to you on the 8th by the Ship Lord Dunmore Captⁿ Lawrance and Inclosed Copies of the Opinions of our Judges given at the Request of Lord Dunmore upon the Controversey between him and my Father; his Lordship having Transmitted the proceedings Home for the Advise of the Minestrey on which he Intended to form his Decree. As this is not a Judicial Course of proceeding we do not know that anything Can be Done on our part, but are desirous that Those who Act for us in England Should always have the fullest information that they may be able to take Such Steps as particular Circumstances Not to be known here may Render Necessary— We are Disappointed of the Copy of M^r Duanes Last Argument which we Intended to Transmit at this Time it Must be sent the Next Conveyance M^r Ralph Izard a Gentleman of Considerable Fortune and distinction in South Carolina, who has Married one of My Sister Delances Daughters, goes at this Time to London With Capt Miller, and will Call on You at my Fathers Desire To Learn from You, Every thing you May know Concerning my Fathers Affairs and if any thing ouccurs in which you May wish for advise. My Father will be Well pleased that You take M^r Izard or Direct the Sollicitor to do So, for we Suppose Dt^r Johnson is not in London. My Father has wrote to Lord Hillsborough at this Time and Sent home Copies of the Judges Opinions least Lord Dunmore Should Not have thought them a necessary Point of the proceedings to be Transmitted.

D. C.

TO THOMAS LIFE, ESQ, BASING HALL STREET, LONDON.

Oct^r 1. 1771.

SIR,

D^r Johnson tells me that before he left London a Petition was prepared to be presented on my behalf to the King, and that you would wait my directions upon it The unanimous Opinion of our Judges in my Favour, and the removal of Lord Dunmore to Virginia, are circumstances which give me strong expectations that the Proceedings will not be revived. I think there is now no danger of anything being done here, unless directions are given for that purpose by the Ministry, who will certainly be cautious in opposing the sentiments of the Judges, which appear to be formed on so good Grounds. These reasons incline me at present to suspend any other application than what I may have made by Letter to Lord Hillsborough—I have had but very little conversation with D^r Johnson who could only favor me with a short visit, before he went to his Family. If upon further consideration I should determine to petition the King, I will take the first opportunity to give you directions for that purpose. But should you anyhow discover that Lord Dunmore's Friends in the Ministry will give you directions or advice to have the Proceedings revived here, I would in that case have you without loss of Time, to proceed with the Petition by applying to my Council upon it, who will resolve upon the most proper manner of presenting it to the King—Please to write to me by the Packet, I shall be glad to hear from you, tho' nothing material should happen.

MEMORANDUM.

April 6th Wednesday, 1774.

GOVERNOR Tryon delivered the following Papers to Lieut Gov^r. Colden—viz:—

7th April, 1773. Order of the King suspending all Grants of Land, except to reduced officers and soldiers untill further Order—1773, June 9th Read in Council and ordered to be enter'd in the Minutes.

24th November 1773. Additional Instruction to Gov^r. Tryon forbidding him to give his assent to any Bill for the naturalization of Aliens—the Divorce of Marriages—and for establishing Titles to Lands held under aliens.

The Memorial of the Judges and Justices of the inferior Court of Common Pleas and Justices of the Peace for the County of Dutches praying an alteration in the Time for holding their Courts.

22^d. March 1774. The Petition of Col. Thomas Ord praying a grant of a Tract of Land upon an order of the King & Privy Council.

23^d. March, 1774. Petition of Walter Rutherford praying a Grant of 5000 acres of Land, upon an order of the King in Council.

23^d. March 1774. Petition of Henry Balfour by his attorney Walter Rutherford, praying a Grant of 5000 acres of Land upon an order of the King in Council.

6th April. The Certificate of Peter Totten that he and his associates had disposed of all their equitable Right and Title to Lott No. 27 in the late Indian Purchase made for the benefit of Joseph Totten & Stephen Crossfield, to Captain Farrington and others—23^d March 1774.

The Petition of Hugh Morrison a non Commissioned officer, with his certificate and Location.

The Petition of Peter Deacon and sundry other Non Commissioned officers & soldiers, for 2000 acres of Land in Harpur's Purchase.

Petition of Peter Wharton Gregory for 2000 acres of Land in Harpurs Purchase, with his Certificate.

The Petition of James Jancen for a Grant of two Non Commissioned Officer's Rights of Land, with the Petition and certificates of the said non commissioned officers.

The Petition of Donald Mc Pherson and his associates with three Certificates.

The Petition of Hugh McNab, with certificates.

The Petition of Robert Lake for a Grant of 3480 acres of Land in the County of Gloucester.

The Petition of Paul Hogstrasser John James Abbott and John Tillman.

The Petition of the Proprietors of Westenhook, with the examination of Robert Yates, Esq, Do. of G. G. Marselis, Tho^s. Hun and John Ten Broock—Do of John Hansen The Petition of Godfried Swan.

The two following Petitions were delivered to Me by Col. Fanning, viz:

The Petition of Stephen Slott and Samuel Sidman for 2000 acres of Land 7th Feby, 1774.

The Petition of John Russ and his Associates for a Grant of Lands to the northward of the North Bounds of the Province of New Jersey.

This Day I received of Col. Fanning twelve blank Mideteranean Passes for which I gave him my Receipt and paid him £15 stg. Ex^d. at 180 makes £27 currency.

This Day Gov^r. Tryon and my Father executed an Indenture of Covenants, for disposing of the Salary and Emoluments of Government, Gov^r. Tryon delivered to my Father the Duplicate of his Letter to Nathaniel Coffin, Esq, at Boston of which the following is a copy.

Duplicate.

New York 6th April 1774.

SIR,

Having received the King's Commands to return to England for a short Time, I desire you to pay to Lieut. Governor Cadwallader Colden or his order, one half of

the Salary made payable to Me by his Majesty's Warrant as Governor of New York, after deducting your Commissions of two and a half p^r Cent, to commence from the nineteenth Day of April Instant and to be continued till further Orders from Me. The other Moiety of my Salary to be paid to the Hon^{ble} Henry White Esq, my agent and attorney in this city, or his order, Your observance of these Directions will much oblige, Sir, Your most Obedient Servant

WM. TRYON.

NATHANIEL COFFIN, Esq.

Gov. Tryon directed M Banyar to pay to my Father, out of Money in his Hands, whatever was the amount of the Moiety of the Salary from the Day he left this Province to the 19th Day of this Instant April.

This Evening (6th April) Gov^r Tryon delivered the following Letters to my Father

From the Earl of Dartmouth—

No 14. 28 Oct 1773. No. 15. 1st Dec 1773. No 16. 8th Jany, 1774.

A Letter from the East India Company 8th Jan^y 1774.

Extract of a Letter from the Earl of Dartmouth to Major Gen^l. Haldimand 8th January 1774.

A letter from John Pownall Esq. 1st Dec^r 1773.

At the same Time the Gov^r left with my Father his Copy Book of Letters to the Secrettary of State with leave to make Minutes of them which I did, and delivered the Book this Morning—April 7th to Ben Johnson the Gov^r's Servant, the Gov^r being then gone to Greenwich.

Thursday April 7th This Day between eight and nine o'clock Gov^r Tryon gave Me the great Seal at his House, to be delivered to my Father, which I immediately did.

Between 9 and 10 o'clock this Day Gov^r Tryon embarked on Board the Mercury Packett, Captⁿ Dillon, and immediately sail'd.

The Council met at my Father's Room soon after the Gov^r embarked, before them quallified anew.

Wednesday April 8. 1774.

M^r Kemble delivered to my Father nine blank Registers sealed and signed by Gov^r Tryon.

TO JOHN COLLINS, ESQ^a DEPUTY SURVEYOR GENERAL
OF QUEBEC.

New York, April 18th 1774.

SIR,

Governor Tryon desired I would transmit to you the Resolves of our Assembly, upon the Overture made by you for compleating the partition Line between this Colony and Quebec, which you will find inclosed. I am, Sir, &c.

TO NATHANIEL COFFIN, ESQ. AT BOSTON.

New York, 28th April, 1774.

SIR,

Governor Tryon left with me the Duplicate of his Letter to you of the 6th Inst, desiring you to pay to Me, or my Order, one half of the Salary made payable to him as governor of New York, after deducting your commissions of two and a half p^r cent, to cominence from the 19th Day of this Month. As I doubt not you will have received the first Letter, which M^r Tryon transmitted to you himself, I shall not now send the Duplicate: but beg favor of you to let me know at what Times I may draw upon you for my Proportion of the Salary; and that M^r Elliott may have directions to pay the Bills here in the same way that it was ordered for Governor Tryon. I am, Sir.

TO THE EARL OF DARTMOUTH.

No. 1.

New York, 4th May 1774.

MY LORD,

By Governor Tryon's absence from this Government the administration has again devolved upon Me. It shall be my study so to discharge my Duty, that I may ensure your Lordship's Protection, and be made happy by my royal Master's approbation of the last services of a very old Servant.

Governor Tryon went Home enabled to give your Lordship the fullest Information of the state of this Province. I need not mention any Thing that he was acquainted with. The only Matter of consequence which has occurred since he left us, is the Transactions relative to the Tea from London.

Captain Lockyer, with the so long look'd for Tea from the India Company, arrived at Sandy Hook on the 19th of last Month, the ship came no farther up, and a few days after sail'd from thence again for London with the Tea on Board. Neither the Captain, nor any other, made the least application to me about the Ship or her Cargo. The account of this affair, publish'd in the enclosed news Paper is as particular and full as any that I could procure.

In the same Paper your Lordship will find an account of some more violent Proceedings against a Parcell of Tea imported by Captain Chambers in the Ship London, who arrived here while Captain Lockyer was in this Place. As no Application was made to me by Captain Chambers or any other before or since this riotous Event, I cannot give your Lordship a better account of it than is contained in the printed Paper. It happened early in the Evening, and tho' a pretty large number of Spectators were assembled, the Quarter where I reside, and the greatest Part of the Town were perfectly Quiet. It is said Captⁿ Chambers drew the particular Resentment of the People upon himself, by the duplicity of

his Conduct. Last Fall he claim'd applause Here, for being the first who refused to take the India Companies Tea on board his Ship; and received public Thanks from the People of this place for it.

A few days after Governor Tryon went from here, a small sloop loaded with Dutch Tea, Duck &c, was seized by an officer of the Custom House. She was taken in this Port at Noon Day, and secured without any Tumult on the occasion.

Since Governor Tryon embarked I have received your Lordship's Letters N^o 17 and 18. Likewise his Majesty's additional Instruction of the 3^d of February, and your Lordships circular Letter accompanying it. I laid the Instruction and Letter before the Council who have still under consideration in order to form such Rules for our future conduct as may be consonant to his Majesty's Commands. I have likewise received your Lords^{ps} separate Letter of the 5th of February, relative to the case of Capt. David Price. I beg your Lordship may be assured that I will pay the strictest obedience to his Majesty's Commands, & that I will endeavour to execute them in the most faithfull Manner. I am

TO GOVERNOR TRYON.

New York, 4th May 1774.

DEAR SIR,

The Packett which arrived so soon after your departure, that they saw your ship going to sea, brought a most unexpected dismissal of Mr. Banyar from his Deputyship. This Event is a very particular Loss to Me, but of still greater Consequence to the Public. Your Excellency is so well acquainted with his abilities, great application to Business and his Integrity, you will join in lamenting his dismissal. He has at all times been a warm friend to Government, of which number

We have not any to spare. Such Discouragement has bad Effects.

The long looked for Tea Ship arrived at the Hook the 19th of last Month, and came no farther up. No application of any kind was made to me about her. Some of our hot heads would have a Parade when the Captain left Town. It was disapproved of by all the better sort of People, but you know they do not govern upon these occasions. However it was merely a Parade, without any Insult to Government or Individuals. The Town in general, and particularly the Quarter where I reside, was as quiet as if nothing of the kind had been in Agitation.

The Evening before Captain Lockyer went down to his ship, Captain Chambers arrived with some Boxes of fine Tea on board which he brought on his own account of which the People Here had notice by way of Philadelphia before he arrived. Last Voyage he claimed some Merit for being the first who refused to take the India Companies Tea on board—the duplicity of his conduct drew a particular Resentment upon him. His Tea was destroyed presently after the ship got to the Dock, and the Captain thought it was best to go off himself next Day with Captain Lockyer. Your Excellency is so well acquainted with the Spirit of the Times, that I need not pretend to explain these Transactions to you. Indeed as no Application was made to Government in any shape, either upon account of the Tea Ship or Captain Chambers, the enclosed News Paper contains the best relation of these Transactions which I am able to give. We wait with anxious suspense for the Determination of Parliament.

A Day or two after your Excellency left us, my Grandson Rich^d Colden step'd on board a small sloop lying at a Dock, loaded with Dutch Tea, Gin, Duck &c. He seized her, and got her brought down to the Battery and secured at noon Day, without any Tumult. The smugglers had so daringly exposed this Cargo that every Body thought they justly deserved to loose

it. As soon as the sales are completed and the accounts settled your Excellency's half of the Governors third will be paid to Mr. White.

In the Cause between Parson Bloomer and the Church Wardens of Jamaica, Mr. Scott for the Church Wardens appeal'd from the Decree your Excellency gave the Day before you embarked. As I apprehend the Contention is not so much for the value in suit, as for the superiority of Church or Presbyterian, I imagine the Appeal will be carried on in a Manner that will run the costs very high, and therefore I ordered them to give security in £1000 stg.

I have received the new Regulations for granting Lands in this Province, contain'd in his Majesty's additional Instruction of the 3^d of February, and an explanatory Letter from Lord Dartmouth of the 5th of February. I laid them both before the Council, who have had them under consideration above three weeks, and are not yet ready to give Me their advice upon them. There is a Provisoe in Lord Dartmouth's Letter which occasion's a Perplexity: the Paragraph is as follows:—"It is not the King's Intention that those who have hitherto obtained orders in Council for Lands in America, and have not yet located them, should be precluded by this Plan from carrying those orders into Execution, conformable to the directions contained therein, nor is it meant to preclude any Claim to a Grant of Lands founded on any antecedent step that can in Equity give a Title to such Grant. It is intended that in every Case where a Warrant of survey has been obtained, the Grant shall be completed, *provided however that in no case whatever the Location be allowed upon Lands which by Instructions you have already received you are restrained from granting.*"

Your Excellency knows there are former Instructions which forbid the granting of any Lands within the District claim'd by New Hampshire; or within the Canada claims to the northward of Crown Point; and that the Lands ceded to the Crown in 1768 are under

the same Inhibition—Where then are the Mandamus's and Rights of reduced officers to be satisfied? Jessup and his fellow Purchasers have the highest equitable claim to the Lands they purchased in 1772. And if they have the benefit intended by Lord Dartmouth's Letter, no Mandamus or officers Right can be located there. One Party or other must be deprived of the advantages intended by the King, and to which they have a just Title from the Expense they have incur'd, unless the former Instructions are so explained as not to extend the restraint to the whole District claimed, but only to Lands that are within the Grants made by New Hampshire or Canada.

Your Excellency will likewise recollect that there are several Petitions depending from Persons, who having obtain'd Warrants have incur'd a very considerable Expence in discovering Tracts of Land, which tho' within the District claim'd by New Hampshire, are not within any Grant ever made by that Government. Some of these Petitioners have such equitable Titles as may be thought do come within the meaning of Lord Dartmouth's Letter; but if no Land may be granted that is within the *District* claimed by New Hampshire, they are totally shut out.

I have endeavoured to give your Excellency some Idea of the subject of our Deliberations, and shall take the first opportunity to inform you of what is the result.

By this Time We flatter ourselves you may be safely landed. It will give us very great Pleasure to hear that you have had a pleasant Voyage, and that your Excellency, your Lady and Daughter were in good Health—My Daughter and her children—my son David and his Wife join with me in presenting our most respectful compliments.

TO ANDREW ELLIOTT, ESQ., RECEIVER GENERAL OF
HIS MAJESTY'S QUIT RENTS—NEW YORK.

Spring Hill, May 16, 1774.

DEAR SIR,

In obedience to a Letter received by the last Packett from the Secrettary of State, I inclose you an Extract from his Letter. All that is necessary being to inform you of his Lordship's Intentions. I am

TO THE R^t HON^{ble} EARL OF DARTMOUTH.

No. 2.

New York 1st June 1774.

MY LORD,

I have received your Lordship's Commands of the 6th of April No 19. I immediately sent M^r Elliott, the Receiver General of Quit rents, an Extract of what your Lordship writes in favour of Col. Keene, and you may be assured no Process will issue against his Lands for the Quit rents, till the Determination of the Lords of the Treasury is Known.

The Act of Parliament shutting up the Port of Boston, was brought to this Place by a Merchant Vessel, a few Days before I received it from your Lordship's office. The Act was immediately published in all our News Papers, and was the Subject of all Conversation. I know that People universally in this Colony, had conceived such Ideas of being taxed at the pleasure of Parliament that I was particularly anxious on this occasion to discover the Sentiments of those who might have most influence over others, and was assured by the Gentlemen of the Council and others of weight in the City, that no means would be omitted to prevent the hot-headed People, from takeing Measures that might endanger the Peace and Quiet of the Colony. The Men who at that Time call'd themselves the Com-

mittee who dictated and acted in the name of the People, were many of them of the lower Rank, and all the warmest Zealots of those call'd the Sons of Liberty. The more considerable Merchants and Citizens seldom or never appear'd among Them; but I believe were not displeased with the clamour and Opposition that was shewn against internal Taxation by Parliament. The principal Inhabitants being now affraid that, these hot Headed Men might run the City into dangerous Measures, appeared in a considerable Body at the first meeting of the People, after the Boston act was received Here. They dissolved the former Committee, and appointed a new one of 51 Persons, in which care was taken to have a number of the most prudent and considerate Persons of the Place. Some of them have not before join'd in the public Proceedings of the Opposition, and were induced to appear, in what they are sensible is an illegal Character, from a consideration that if they did not the Business would be left in the same rash hands as before.

Letters had been received from Boston with an Invitation from that Town to the Sister Colonies immediately to come into a Resolution to refrain from any Commerce with Great Britain and the West India Islands till the Act for shutting up the Port of Boston was repealed. A printed Hand Bill of this Proposal is enclosed.

I am inform'd that the new Committee in their answer to Boston, have given them no reason to expect that the Merch^{ts} Here will adopt so extravagant a Measure—And People with whom I converse assure me that they think it cannot be brought about by the most zealous advocates of Opposition. As yet no Resolutions have been taken by the People of this Colony, and the cool prudent Men will endeavour to keep Measures in suspence, that they may have an opportunity of adopting the best. I am told they have proposed that the Colonies be invited to send Deputies to meet together in order to Petition the King for Redress

of Grievances, and to deliberate upon some Plan whereby the Jealousies between Great Britain and her Colonies may be removed. It is allowed by the Intelligent among them, that these assemblies of the People without authority of Government are illegal and may be dangerous, but they deny that they are unconstitutional when a national grievance cannot otherwise be removed. What Resolutions will be taken I cannot as yet say. The Government of this Province has no coercive power over these assemblies of the People, but the authority of the Magistrate, in all cases, is submitted to as usual.

I have reason from your Lordship's Letter to suppose there is a Design to appoint another Lieut' Governor of this Province. I trust in his Majesty's Justice that when he is pleased to dismiss an old Servant, he will bestow such gracious Testimonies as will evince that tho' he may think me too old to serve him at a Time when the task is become uncommonly arduous, I have not forfeited his royal Protection and Favour. I shall Persevere my Lord in constant application to a faithfull discharge of my Duty, and in endeavouring to preserve this Government in good order. I am

TO HIS EXCELLENCY GOVERNOR TRYON.

Spring Hill 31st May 1774

DEAR SIR,

The Act of Parliament for shutting up the Port of Boston is a Measure of such consequence that you will expect those who have the honor of writing to you from Hence, should give you some account of what happens among Us upon it. Soon after the act was received here an Express arrived from Boston with an Invitation of that Town to their sister Colonies to resolve that they would suspend all Importation or Exportation from Great Britain or the West Indies, until the Boston Port

Act should be repealed. On receipt of this, Inhabitants of the City were called together as usual to consult upon Matters of the greatest Importance.

Most of the principal People attended that Meeting, and many who had not before appeared on such occasions. They dissolved the Committee then acting, & appointed another, among which were chosen some of the moderate & prudent Inhabitants; your Excellency will see their Names in the News Papers. The Majority of the new Committee act with a Resolution to prevent any violent or rash measures, being entered into, and to preserve the Peace of the Colony. I am well assured they will not comply with the Requisition of Boston, but what they will do I cannot as yet say. A Congress of Deputies from all the Colonies to join in a Petition to the King, and a Plan for settling the Dispute with G^t Britain, is talked of.

I am told that the assembly's agent M^r Burk writes that M^r Pownal proposed the appointing Commissioners to determine the Dispute between this Province and New Hampshire. I am very certain the proprietors of lands under the New York Grant will never submit their Titles to such a Decision for that would put the New Hampshire People upon the same footing with them. The New York Grantees think they have a complete Title in Law, and that the others have none at all but usurpation; the Governors of New York having had at all Times sufficient authority to grant the Lands on the west side of Connecticut River, which none of the Governors of New Hampshire ever had.

Nothing has been done in the Land office since your Excellency left us. I mentioned in my former Letter the Embarrassment We were under with respect to Lord Dartmouth's Letter. If your Excellency could procure such an Explanation as would make it clear that it was intended that those People should be favoured who had equitable Claims to Lands within the *District* claimed by New Hampshire, but never actually granted by that Government—and likewise that Jessup and his Associ-

ates, who have such strong equitable Titles, should receive Grants in the old Mode, you would greatly serve many People who seem to be hardly dealt with by Government. On the other Hand, as matters stand now, I fear that neither you nor I will partake of a considerable Advantage that might be made.

We make no doubt that you are in England before this Time & long much to hear that you M^{rs} Tryon & Miss are safe and in good health. May your Excellency have that reception from his Majesty which your services deserve. I am now at Spring Hill, which I find agrees better with my Health than the Town. My son carries this to Town, & I leave it open that if he learn anything new he may add it. He and his wife join with me in our most respectfull and affectionate compliments to you and M^{rs} Tryon I am

Addition by David.

June 1st New York.

SIR,

Having my Father's directions to inform your Excellency of any thing I might learn in Town worth notice, I cannot omit the honor of laying before you, some Intelligence I have received from good authority. The Boston news Papers by the last Post, contain a Letter of the 14th of May, said to be wrote from this Place to the Committee in Boston, expressing the sentiments of the People of this City. This letter gives great displeasure here, and the Committee of 51 have made a strict enquiry to find out the author; and have in particular call'd upon the late Committee to answer whether or not they had wrote, or knew any thing of the writing of that Letter—which all Deny—I am told a disavowal of the Letter, and some remarks upon it will be published in Rivington's Paper to-morrow.

The Committee of this Place had a meeting last Night in consequence of a Proposal from Philadelphia that we should appoint a Day of Public Fasting and

Prayer. The Committee have put it off, as a Matter with which they had nothing to do. I believe it would not be easy to bring the Gov^r. & Council to appoint a Fast at this Time. So far as I can discover the new Committee act up to the principles upon w^h alone they can be vindicated—They prevent the violent inflammatory Measures, that some among us would run into, and publish as the act of the whole. They endeavour to suspend any Resolutions whatsoever, & to preserve the Peace and Quiet of the Government.

My Father expected that the acts of assembly of the last Sessions, would have gone to the Board of Trade by this Packett but unfortunately the Great seal gave way twice before we had the seal fixed to half the acts. It gave way a third Time so late this night, that we could not get it repaired, & the rest of the acts sealed before the Mail will be closed. The seals giving way in the manner it does, must be owing to the fire it went through last Winter. If your Excellency should think it necessary, you will be able to inform the Lords of Trade and Plantations, of the accident which has prevented the acts being transmitted at this time.

I beg leave to remind your Excellency that you was pleased to say that you would send over 30 Midⁿ Passes—only two remain of those you left, and the Merchants think they will be much distressed for want of Passes. I am.

TO GOVERNOR TRYON.

New York, June 2, 1774.

SIR,

Mr. Foxcroft having detain'd the Packett till noon this day, We have got the Great Seal mended and the acts all seal'd so that they will yet go by this Mail. As I inform'd your Excellency in the Letter which I put into the Mail last night that the Acts could not be

sent at this Time, I presume to give you the trouble of this that you may not be led into a mistake I shall now send the Letter my Father had wrote to the Lords of Trade and Plantations.

I take the liberty to inclose this Days news Paper as the latest that can go at this Time. I am sorry to see the Resolves from Mariland. Every thing of that kind serves to blow up the Flame, and does great mischief in the hands of the Outrageous. I learn that the Committee of 51, are sending letters into all the Counties of this Province, inviting them to appoint Committees of Correspondence, that the sentiments of the whole Colony may be taken, in case the situation of affairs should make it necessary. Could their sentiments be fairly known I make no doubt a large Majority would be for the most Moderate & Prudent Measures. But I am afraid the Business in the Counties will be left to a few forward intemperate Men, who will undertake to speak for the whole, and that no good will come of this Measure. The Times are full of the most interesting events—God knows what is to come of us. I must intreat your Excellency to Pardon the Liberty I take, being with entire submission, your Excellency, &c &c.

TO THE R^T HON^{BLE} LORDS COMMISSIONERS OF TRADE AND
PLANTATIONS.

New York, 1st June 1774.

MY LORD,

By this Packett will be sent in a Box from the Secrettaries office, all the Acts of the Legislature of this Province pass'd in their last Sessions, under the great Seal of the Province. As all these Acts pass'd while M^r Tryon was in the administration, who is now in England, and better acquainted with what relates to the passing of them, than I am, I think it needless

to trouble your Lordships with any thing more, but beg leave to subscribe myself with great submission, My Lords, &c. &c.

TO THE R^t HON^{BLE} EARL OF DARTMOUTH.

No. 3.

New York, 6th July 1774.

MY LORD,

In my Letter of June 1st I inform'd your Lordship that the People of this City had chosen a Committee of 51 Persons to correspond with the sister Colonies on the present political affairs—that many of this Committee were of the most considerable Merch^{ts} and Men of cool Tempers who would endeavour to avoid all extravagant and dangerous Measures. They have had a continual struggle with those who are of a different Disposition, and having for several Weeks succeeded in suspending any Resolutions, I was in hopes they would have maintained the only Conduct which can excuse them. But accounts repeatedly coming to Hand from different Parts of the Continent, of the appointment of Deputies to meet in a general Congress, this Measure was so Strenuously push'd that it was carried in the Committee of 51 on Monday last; and five Persons were named to be the Deputies from this Province. The Persons named are James Duane & John Jay, two eminent Lawyers; Isaac Low, Phillip Livingston and John Alsop, Merchants. I am told a violent effort was made in the Committee to have John Scott, an eminent Lawyer and Alex^r M^cDougal, the Wilkes of New York, named in place of Jay and Alsop. It is said the People are to be invited to meet on Thursday to approve of the Deputies named by the Committee. These transactions are dangerous, my Lord, and illegal, but by what means shall Government prevent them? An attempt by the power of the Civil Magistrate would only shew their weakness, and it is not easy to say

upon what foundation a military aid should be called in. Such a Measure would involve us in Troubles which it is thought much more prudent to avoid; and to shun all Extreame while it is yet possible Things may take a favourable turn. The Purpose of the Congress, it is said, is to Petition for a redress of Grievances, and to consider of a Plan for settling the Controversy with Great Britain, but no Instructions for the Deputies have yet appeared that I know of.

The present political zeal and Frenzy is almost entirely confined to the City of New York. The People in the Counties are noways disposed to become active or bear any part in what is proposed by the citizens. I am told all the Counties but one have declined an Invitation sent them from New York to appoint Committees of Correspondence. This Province is every where, except in the City of New York, perfectly quiet and in good order; and in New York a much greater freedom of Speech prevails than has done heretofore. An opposition has been declared to the vile Practice of exhibiting Effigies which I hope will prevent it for the future.

I believe your Lordship will expect a particular account of the state of the Government from me, which I hope will be a sufficient excuse for my troubling you with such minute Transactions. I am anxious to perform my Duty, and to merit your Protection by being, My Lord, your Lordships most faithfull and obedient servant.

TO GOVERNOR TRYON.

Spring Hill, 6th July 1774

DEAR SIR,

As I have inform'd you heretofore that no Business was done in the Land Office, since the receipt of the new Instructions, it is proper your Excellency should now know that, since my last Letter, the Council have

advised Me to issue Pattents to several Persons who had not only heretofore obtain'd Warrants of Survey, but who had other very strongly equitable Claims—such as Col. Stone, M^r Ivory, Col. Willard, M^r Ashley and M^r Knoulton, whose Warrants are all of them for tracts of Land that never were granted by New Hampshire, or the French.

Bergen and his associates, Ranslaer and Abeel, and others of the Indian Purchasers, I hear, intend applying for Pattents. Your Excellency knows how great the Equity is on their side; and that they have not only had Warrants of Survey, but returns made, and a great expence incurred under the full authority of Government.

My Son Alexander who was very unwell when your Excellency went from Hence, has been for some Time past quite incapable of executing his office, or of appointing a Deputy. I have, by advice of Council, appointed David to execute the office of Surveyor-General during his Brother's incapacity.

M^r Elliot has paid me £368-16-0. which is one-half of the net proceeds of two seizures made by the Custom House, since you went from hence, the other half is paid to M^r White for your Excellency.

The state of political Matters in this Government is not much changed since my last Letter. The new Committee of 51 have had a continual struggle to keep down the extravagant Manuvers of the more violent Opposers of Government. Yet they say they were forced to submit last Monday to the nomination of five Persons to attend the proposed Congress. M^r Duane, Jay, Low, Ph. Livingston and Alsop were named. A violent Effort was made to get Scott & M^cDougall in place of Jay and Alsop, which it is said they will yet endeavour to get done by the People. Except in the city of New York, the People in the Province are quite Tranquile, and have declin'd takeing any Part with the Citizens. An Opinion is spread very generally in the Country that if a non-importation agreement is form'd,

Government will restrain our Exportation; a Measure which the Farmers clearly see will be ruinous to them.

The May Packett arrived yesterday, but brought no accounts from your Excellency, which we had flattered ourselves she might do.

You will be assured Sir that We bear the most respectfull and affectionate Remembrance of your Excellency, M^{re} Tryon, and your Daughter, and that I am

TO CARY LUDLOW, ESQ, DEPUTY REGISTER OF THE
ORDINARY & PREROGATIVE COURT OF THE PROVINCE
OF NEW YORK.

Spring Hill, July 6th 1774.

SIR,

Mr Samuel Bayard Jun^r, the Deputy Secrettary, has just now shewn me his Majesty's Order in Council of the 13th of April last, commanding that the Secrettary of this Province, or his Deputy, be forthwith reinstated in the office of Register to the Ordinary and Prerogative Court of the Province. In obedience to which command you will forthwith deliver to Mr. Bayard the seal of the Prerogative Court, and all the Books and Papers belonging to the office. I am, Sir.

TO THE R^t HON^{BLE} EARL OF DARTMOUTH.

No. 4.

New York, 2^d August, 1774.

MY LORD,

The Public have met with a very great Loss in the Death of Sir William Johnson, which happened on the 11th of last Month. He was engaged in business of much Importance, with a large number of Indians who were then with him, on the present critical state of Indian affairs on the Frontiers of Virginia. He had been unwell some days, but applied closely to Business, in

consultation with the Indians, till he was obliged to call for assistance to get to his Room, and expired soon afterwards.

Sir William Johnson's great abilities and singular Disposition enabled him to acquire and hold a greater Influence among the Indians than any other Englishman ever had. I am told he recommended his son in law, Col. Guy Johnson, to his Majesty, to succeed him in his Department. The Colonel took up the remaining Business of the Congress, after Sir William's Death, and I know no Person so proper to succeed his Father in Law.

By Sir William's Death, his seat at the Council Table is become Vacant. I hope Gov. Tryon is now with you. He is the proper Person to recommend for filling up that Vacancy.

In my last No. 3, I submitted to your Lordship my opinion that the Government here cannot prevent the frequent meeting of the People which have been common everywhere, and I am now convinced that if Government had interfered the most violent Men would have gained great advantage, and would have prevented the acquiescence in the Election of Moderate Men, which has now taken place to meet at the general Congress of Delegates from all the Colonies which is proposed to be held at Philadelphia next Month. The Meeting of the Delegates, I am of opinion, cannot be prevented. If they pursue only such prudent Measures as are calculated to remove the destructive Dissensions which subsist between Great Britain and her Colonies, the Meeting tho' illegal, it may be hoped, will produce some good. Great Pains has been taken in the several Counties of this Province to induce the People to enter into Resolves, and to send Committees to join the Committee in the city ; but they have only prevailed in Suffolk County, in the East End of Long Island which was settled from Connecticut, and the Inhabitants still retain a great similarity of Manners and Sentiments.

From a view of the numerous Resolves of the People in all the Colonies, which appear in every News Paper,

your Lordship might be led to think a stupid fatal hardiness intoxicated the whole; but there are everywhere People who are allarm'd at the critical Posture of the contention between G^t Britain and her Colonies. They look forward with deepest anxiety, and would rejoice in any prudent Plan for restoring Harmony & Security. Could it be thought consistent with the Wisdom of Parliament to lay aside the Right of raising Money on the Subjects in America, and in lieu thereof, that the several American Assemblies, should grant and secure to the Crown, a sufficient & permanent Supply to pay all the officers and ordinary Expenses of Government, they are of the opinion this would be a ground Work, upon which a happy Reconciliation might be effected—the Dependance of the Colonies on Great Britain secured—Government maintained—and this destructive Contest happily terminated. For this purpose they hope an Address to his Majesty will be formed at the Congress, and some Persons be sent from each Colony to give his Majesty's Ministers full Information of every Thing which shall be thought necessary to be known with respect to the Colonies. I am

TO GOVERNOR TRYON.

Spring Hill, 2^d August 1774

DEAR SIR,

I am impatient to hear of your Excellency's arrival in England. We have news from London to the 23rd of May, and find no mention made of you. The June Packet has not yet got in.

Since I had last the honour of writing to you, We have met with a great Loss in the death of Sir William Johnson. You know very well his unparalleled usefulness in the Department of Indian Affairs, and how difficult it will be for a successor to equal him. He was finishing a Treaty with the Indians which he had held

on the present critical Posture of affairs with them and the southern Colonies. He had been unwell during the whole time, but was at last obliged to call for assistance to carry him out of the Indian Council Room, and lived but an hour or two after. Col. Guy Johnson writes to me that he finished the Business with the Indians, and that Sir William had recommended him for his Successor in that Department. I believe he is the fittest person we have among Us. Sir John has no inclination to such a Life. By Sir William's Death, a seat is vacant in the Council of this Province, M^r Elliot and M^r Kempe are both men of good sense and very proper from the offices they bear to be at the Council Board. The Receiver General has at all times, till now, been of the Council. But I know no Man who can be more usefull on every account, than M^r Banyar, he has been so long conversant in public affairs. I have only mentioned to Lord Dartmouth that there was a vacancy in the Council, judging it best to leave the recommendation entirely with your Excellency.

The People in this place have been in continual ferment of Division among themselves upon their political Measures, which at Bottom arises solely from their local Party views—they have all an eye to the next Election, more than any thing else. They have at last acquiesced in nominating Isaac Low, Philip Livingston, John Alsop, James Duane & John Jay for their Delegates at the Congress. The Counties have taken no Part in this Nomination, and from the intelligence I have, I believe none of the Counties, except Suffolk, will be prevailed on to do any Thing. All other affairs of this Province are in good order, as your Excellency left them.

In consequence of the King's Order in Council, which M^r Bayard brought to Me the Day after I wrote last to your Excellency, the office of Register of the Ordinary and Prerogative Court of this Province, has been given up to M^r Bayard the Deputy Secrettary. I have made no change in the Surrogates office which M^r Ludlow continues to execute for Col Fanning.

My son Alexander after lying some time in a State which his Physicians, and all who saw him, thought it impossible he could survive, recovered surprisingly a few Days after his son in Law Antill sail'd from Hence, and is now able to walk from Room to Room in his House, but is too weak to do any Business. It is unlucky that M^r Antill was so precipitate in his Voyage to England. He had I think but an indifferent prospect of success, and must now drop his suit. I hope it may not occasion any steps being taken to my son's prejudice, which would not otherwise have happened.

I have drawn for one half of your Excellency's Salary from the 19th of April to the 19th of July, and M^r Elliott has paid me the Value of the Bill. I am

TO THE R^t HON^{BLE} LORD LE DESPENCER.

New York, 2^d August 1774.

MY LORD,

Haveing taken the liberty to trouble your Lordship with a letter by M^r. Antill who went to England in the last Packet, it is necessary for Me now to write again, to inform your Lordship that my son, the Post Master here, who was so ill when M^r. Antill went from hence that no Body thought he could live above a Day or two, has since recovered, and is now able to walk about his House. M^r. Antill will therefore give over the Business he went upon, and I hope his application will not occasion any steps to be taken to the prejudice of my son.

M^r. Antills anxiety to secure a Post on which he might support his Family, was so great, he prevail'd on me to write in his favour. I intreat your Lordship to pardon any trouble this may have occasion'd you, and to permit me to have the honour to be, My Lord.

To GUY JOHNSON, Esq.

Spring Hill, August 22^d 1774.

SIR,

I am really concern'd that the Cause of Complaint which the Indians have against George Klock should still stand unredress'd. I am well assured that Government has wish'd to have it in their power to satisfy the Indians in this affair and to make a proper Example of Klock for his repeated villanies towards them. It is a Misfortune that no Method has yet been thought of to make him amenable to the Law for his offences. I fear difficulties will still occur. Your Letter of the 2^d Instant and the Indian's Complaint will be laid before the Council at their first Meeting, and I shall propose their most attentive consideration of this Business—A suit in Chancery to compell Klock to execute the Release to the Indians, is a Measure upon which I shall take their Opinion: and in the mean time shall be glad to know your opinion of it, or any other Plan which you think can be pursued to give the Indians satisfaction; and to inflict an adequate Punishment on that mischievous Fellow. A Petition from his Neighbours on the subject will not be amiss. It gives Me great pleasure to hear that you finished the Treaty, which my good and much respected Friend had commenced in a satisfactory Manner I doubt not you will favour Me with an account of the result of the Deputation sent to accomodate the Breach to the Southward.

Pray present my Compliments to Sir John Johnson, and be assured the respect I have for the Memory of my departed Friend will attach me particularly to whatever concerns your Honor or Interest, whom He distinguished by his entire confidence. I am

TO GOVERNOR TRYON.

Spring Hill 22^d Ag^t. 1774.

SIR,

The Governors of King's College in New York have desired that the Draft which they have made of a royal charter may pass through my Hands to your Excellency. I make no doubt you will use your Influence with the Kings Ministers in order to obtain it. The Dissenters from the Church of England have the sole Education not only in all the seminaries of Learning in the New England Colonies, but likewise in New Jersey and other Colonies, & therefore it seems highly requisite that a Seminary on the Principles of the Church of England be distinguished in America by particular Privileges, not only on account of Religion but of good Policy, to prevent the farther growth of republican Principles, which already too much prevail in the Colonies. Your Exc^t. is so well inform'd of the present state of the Colonies, that it is needless for me to add any thing more than that I am with the greatest Respect &c.

TO GOVERNOR PENN.

August 22^d 1774.

SIR,

I have the honour of yours of the 11th of this Month, with a copy of a Petition to the King of the Proprietors of Pensilvania. It seems very reasonable, and I conceive no Objection can be made to it on the Part of this Province.

I am entirely of your Opinion that the ascertaining and establishing the Boundaries between the Colonies is a Matter of great Importance to both, and ought to be accomplish'd without delay. You may therefore be

assured that I will recommend this Business to the Assembly at their next Session—A Provision for the Expence must come from them; on which Head I can give no Answer, till they meet, which will not probably be before Winter. Setleing the begining of the 43^d Degree of Latitude on Delawar River, would alone be a point of much Consequence, and would in a great Measure be sufficient at present to prevent Encroachments on either Side—This might be done much sooner, and at much less Expence by Commissioners appointed by this and your Province, than if referr'd to Commissioners to be appointed by the King. The Latitude may be determined with the greatest Certainty in the Months of November or December, by observing the altitude of the Pole star above and below the Pole. For in this Method no Calculation is necessary and no dependence on the previous Work of others. I shall communicate your letter and the Copy of the Petition to the Council the first Time they meet. I am with much Respect Sir, &c.

TO GUY JOHNSON, ESQ.

Spring Hill, 23^d August 1774

SIR,

Since my Letter of yesterday I have received Dispatches from the Secretary of State. In his Letter of the 6th of July, there is the following Paragraph.

“Sir William Johnson haveing acquainted Me that two Seneka Indians have been Committed to the Goal in Tryon County, as accomplices in the Murder of four Frenchmen in the last year—His Majesty is graciously pleased upon Report to him of the Circumstances of the Case, to signify his Pleasure that they both Set at Liberty forthwith, and you will not fail to take the proper Steps for that Purpose.”

Till I received Lord Dartmouths Letter I had not

heard of these Indians being Goal, and now know nothing of the circumstances of their commitment. You will please to direct the Sheriff to release them which I expect he will do upon this Letter from the Secretary of State, but if any difficulties occur, you will give Me, by the first Opportunity such Information as will enable Me to carry his Majesty's Commands into immediate Execution.

I would choose that the Sheriff should release Them upon this Letter from the Secretary of State, if it can be done with propriety.

A Letter which came under my Cover from the Secretary of State directed to Sir William Johnson, I send with this to you. I am, &c.

TO GENERAL GAGE.

New York, 7th Sept^r 1774.

SIR,

The riotous Conduct of a number of People in the eastern Part of the County of Charlotte, in this Province, has grown to a Highth, that calls for a more powerfull Interposition of Government than can be drawn from the Civil Authority alone. On Thursday last, I laid Petition and Complaint preferr'd in behalf of the Officers of Justice and Inhabitants of that County, supported by several affidavits before his Majesty's Council; who were of opinion "that I should apply to your Excellency for a military Aid of 150 or 200 Men to be employed only in supporting the Magistrates in keeping the Peace of the County and its Vicinity."

These riotous People got footing in that Part of this Province since the last War. They came in under Pattents for Land which the Governor of New Hampshire pretended to give them, altho' his Government never did extend beyond the west Bank of Connecticut

River; that River being the original Boundary of this Province, and was declared so to be by an order of the King in Council, issued since the Intrusions under New Hampshire took place. There is not the least Ground to dispute the Jurisdiction of this Government. The Governor of New Hampshire does not now pretend to have any authority there; yet these riotous People continue to deny our authority in every Instance. Not content with holding Possession of the Lands on which they had settled, they have declared the most unwarrantable Opposition to every Act of this Government—grossly insulting and threatening Destruction to the Magistrates who attempt to execute their office; and to all who shall submit, or take refuge under the officers or Laws of this Province. They have even dared to erect two Places of strength to secure themselves from Justice and to terrify those who would oppose them.

The Danger of suffering a number of People in such a Situation to Live in open Defiance of the authority of Government—pretending to appoint officers and to erect Courts among themselves—executing in the most illegal and cruel Manner, the high Power of trying, condemning and punishing their fellow Subjects while their strength is daily encreasing by the Junction of idle, desperate Vagabonds from all Parts of the Country, is so evident, that I doubt not your Excellency will concur in whatever you think is consistent with his Majesty's Service, to suppress these lawless People, and bring them to submit to the legal authority of Government.

Mr Hough, the Magistrate from Charlotte, who attended the Council on this occasion assured Me that if Troops were sent among them, there was a sufficient number of Inhabitants well disposed to Government who would gladly do everything they could to furnish the Troops with good Quarters. If two or three of the ring Leaders of these Rioters were secured, it is thought the Presence of the Troops would not be longer re-

quisite. I therefore hope your Excellency might withdraw them before Winter.

The Gentlemen of the Council are of opinion that if your Excellency should not think it proper to order the aid they advise Me to apply for, to be furnish'd from the Regiment quartered in New York, the Troops may more easily be sent from the Province of Quebec. As soon as we know your orders, We shall give the necessary Directions for the reception of the Troops, and the conduct of the Magistrates in that Part of the country. I inclose your Excellency copies of the Petition and Complaint laid before the Council on Thursday last—and of the Minute of Council thereon. I am, &c.

TO THE EARL OF DARTMOUTH.

No. 5.

New York, 7th Sept^r. 1774

MY LORD,

I have the honor of your Lordship's Letter of the 6th of July No. 21.

The destruction of Captⁿ Chambers's Tea, was so unexpected and sudden that no measures could be previously thought of to prevent it. Afterwards the Gentlemen of Property and principal Merchants attended the meetings of the populace, when called together by their former Demagogues, who thereby have lost their Influence and are neglected. The Populace are now directed by Men of different Principles, & who have much at stake. Many Papers have been publish'd in this city, to expose the Measures which had been proposed by the former Demagogues in opposition to Government, Men now speak & publish Sentiments, in favour of Government, and argue upon the political Subjects of the Times, with much greater freedom & security than has been known here for some years past, which I hope is a sign that the licentious Spirit which has governed the People to their great

Disgrace, is check'd—We have no more burning of Effigies, or putting cut throat Papers under Peoples Doors.

You may be assured, my Lord, that I will grant some of the Land reserved for the garrisons at Crown Point and Ticonderoga: but I am inform'd that Lord Dunmore, while in this Government, granted the land reserved for the use of the Garrison at Crown Point, to Adolphus Benzel, an officer of the Army and Assistant Engineer: and that there is a clause in the Pattent that he shall surrender the Land whenever the King shall require it for the use of his Garrison. In the meantime the Firewood may be cut off.

The five gentlemen whom I formerly informed your Lordship were appointed by this city to be their Deputies at the General Congress, went to Philadelphia, the Place of Meeting, last Week. Seven counties of this Province, neither appointed Delegates for themselves, nor concurr'd in the choice made by the City—and two Counties have sent Delegates of their own. I found the City Delegates were embarrassed by this Dis-sension of the People.

TO GOVERNOR TRYON.

Sept^r 7th 1774

DEAR SIR

I have the honor of your's of the 30th of June. I hope before this the Tunbridge Water has restored your Health. It will give me the greatest pleasure to hear it has.

Every Person who has seen the late Instruction in relation to Lands, the Gentlemen of the Council particularly, are of opinion that the Method proposed is impracticable in the Execution. The Lands now to be granted are above 200 miles from New York, and in the Wilderness. No Person intrusted with the Execu-

tion of that Instruction will undergo the Fatigue and advance the Money to defray the extraordinary Expense it must be attended with. I have granted some Mandates and officers and soldier's Rights under the King's Proclamations, and one or two tracts where Surveys had been actually made, pursuant to Lord Dartmouth's Letter, accompanying the Instruction.

After the Destruction of Captⁿ. Chambers's Tea, and some other violent Proceedings of the pretended Patriots, the principal Inhabitants began to be apprehensive and resolved to attend the Meetings of the Inhabitants when called together by Hand Bills. The Consequence has been that Scott, McDougall, Sears & Lamb are all in disgrace, and the People are now directed by more moderate Men. I hope that the giving any new offence to Parliament will be guarded against. Our Delegates to the Congress, at least the major Part of them are moderate prudent Men. The Colonies to the Eastward of Us are violent, and those to the southward of Pensilvania seem to be likewise. Pensilvania appears to be moderate.

My son Alexander is now at Flushing surprisingly Recovered. I am

TO GENERAL GAGE.

12th Sept^r 1774

SIR,

Since I wrote to your Excellency on the 7th I have received a Letter from Col. Reid, of which the inclosed is a copy. The Col. likewise, upon Information which he has lately received and can depend on, confirms the intelligence We had before the Council, as mentioned in my former Letter, that the Benington Rioters, as they are call'd, have built a two story High Block House at Otter Creek, and that one Captain Hillock has the command of it—and that they have another Block House of the same kind on Onion River.

All our intelligence shews that these lawless People are gaining strength very fast, and are pursuing such a Plan as cannot fail of being very troublesome to Government. Many People in this Place are sensible of this, and of the inability of the civil Power to support Government. The assistance of the Military may at this Time, I think, have some particular good Effects by Demonstrating the necessity we are under to apply for such aid; and the Important Service they are of when properly Employed. It is my Duty to suggest these Matters to your Excellency, but you only can determine how far they are compatible with that Part of his Majesty's Commands which you have more immediately in Execution. I am.

TO SIR JOHN JOHNSON K^r & BAR^r.

Sept^r 18th 1774

SIR,

I have the favour of your Letter of the 9th Instant. When I inform'd Lord Dartmouth of your Fathers Death (an Event which allways recurs to Me as a great public Loss, and which deprived Me of one of the most faithfull and esteemed Friends) I mentioned to his Lordship that thereby a Seat was vacant at the Council Board, but did not recommend any one to fill it, referring that to Gov^r Tryon. I shall in my next Letter, mention you to his Lordship, and shall be glad that you succeed: but I think it is most probable that the appointment will be already made.

I assure you Sir it will give me great satisfaction to testify the Regard I have for the memory of your Father at the same Time that I have the Pleasure to comply with any request you make. At present I know nothing that can prevent my giving you the command of the Militia for the Northern District—Please to send me a copy of your Fathers Commission and let Me

know your Rank and standing in the Militia.

Present my Compliments to Lady Johnson, and be assured that I am, &c.

TO GUY JOHNSON, ESQ.

SIR,

I have your's of the 8th Instant. I can very easily conceive that an uncertainty in the succession to the Superintendency may be very detrimental to the important Business you have to transact with the Indians at this Time. I wish what I wrote to Lord Dartmouth & Gov^r Tryon may be any means of producing a determination in your Favour. I was very explicit on the Subject, but might have been more particular if I had thought there could be any difficulty about it. It is probably Determined by this Time; however I will mention it again in my next Dispatches.

I beg you will allways write with the greatest freedom to Me, and do not imagine there needs any Apology for a Long Letter; I shall give my advice & sentiments to you without reserve, whenever I think that either can be of any use to you.

TO GOVERNOR PENN.

New York, Sept^r 24, 1774.

SIR,

By the enclosed Minute of Council you will be made acquainted with the Sentiments of his Majesty's Council of this Province, upon the Letter of the 11th of last Month which I had the honor to receive from you, with a copy of your Petition to the King.

In the conversation which I had with the Gentlemen of the Council upon this Occasion, they were of opinion that the assembly would not be induced to bear our

Proportion of the Expence of running the whole northern Boundary of Pensilvania; which extends so much further westward than we have any probability of settling in many years. Our Assembly have experienced such heavy Expence attending the appointment of Commissioners under the Great Seal of England, that it may even be apprehended, they will not at any rate, choose to engage in that Way. But we do not doubt they would be willing to join with you in appointing two Gentlemen, one of each Province, to determine the Latitude on Delawar River, and the northern Boundary, so far as there is any room to imagine the Settlements on either side, can extend for a considerable Time to come. In which way it may be done very effectually and at much less expence. I am, &c.

TO THE EARL OF DARTMOUTH.

No. 6.

New York, 4th October 1774.

MY LORD,

The enclosed Copy of a Petition and Affidavit laid before Me and the Council, will inform your Lordship how much his Majesty's peaceable Subjects, in a Part of the Province, mention'd in the Petition, are molested & insulted by a Lawless set of Men who at first settled there under a claim made by the Government of New Hampshire. But since they have been disowned by that Government they will pay obedience to none—assuming all power to themselves—chuse Magistrates, erect Courts, and inflict Punishments, &c. Fugitives from all the neighbouring Governments resort thither so that they are now become a numerous and dangerous Body of Banditti which is every day increasing. The Council advised me to apply to General Gage for military Assistance to preserve the peace only. His answer is that General Haldimand had, on a similar Requisition, declined giving any military

Assistance and his refusal had been approved of by his Majesty's Ministers, and for that reason he declined giving any assistance.

My Lord, this Body of lawless Men, Fugitives from all Parts, daily increasing, may soon become very dangerous by encouraging the worst of Men to resort thither, and to stand in Defiance of all Law and Government, and therefore I humbly conceive it deserves your Lordships immediate attention. The first settlers from New Hampshire and the leading Men among them pretend that they have Encouragement from their agent in England, that your Lordship entertains a favorable Opinion of their claim and Pretensions; but I am persuaded they can have no foundation for such hopes.

The greatest Part of the Lands those troublesome People are settled on my Lord, have been granted by this Government to reduced Officers and disbanded Soldiers of his Majesty's Army who served the last war in America, in obedience to the royal Proclamation of 7th Oct^r 1763. I hardly need mention to your Lordship that, where the Lands are private property, a Dispute of Title, can only be determin'd in the Courts of Justice. The Pattentees under New York, those who hold by military Grants, as well as others who have Pattents in the common Way, think their Title is indubitably good. The Governors of this Colony have had full authority to grant the Lands quite to the west Bank of Connecticut River, ever since the Duke of York received his grant of the Colony. A dread of the French and Indians of Canada prevented for many years any Grants or Settlements being made in that Part of this Province where these people are now settled. The Governor of New Hampshire (who never had authority to grant one foot of Land west of Connecticut River, his Government being bounded to the westward by his Majesty's other Governments) finding this Country an uninhabited Desert, laid hold of the Opportunity upon the Peace which followed the

War before the last, and in a short time granted away this very Extensive Tract of Country down to the Waters of Wood Creek and Lake Champlain. A full information has been, at different Times, transmitted to your Lordship and your Predecessors in office, of the very unjustifiable Manner in which those Grants were made, in Defiance of the earliest notice from this Government that Connecticut River was our Boundary. Your Lordship is possessed of such ample Information on the Subject that I will not presume to trouble you with any Thing more upon it now, but to repeat my humble Opinion of the necessity there is, that those lawless People should be discouraged from entertaining any Hopes but in the Judgments of the Courts of Justice where only the Property of the Subjects can be determined. I am

TO THE EARL OF DARTMOUTH.

No. 7.

New York 5th October 1774.

MY LORD,

I have received your Lordships commands No. 22 and in obedience thereto have published in the usual manner his Majesty's disallowance of the Act passed Here in February 1773.

By my Letter of the 7th of September your Lordship would find I entertained Hopes that the People of this Province would adopt moderate Measures and avoid giving any new offence to the Parliament. I know such was the sentiments of Farmers and Country People in general who make a great Majority of the Inhabitants. I had a confidential conference with one of the Delegates sent from this city to the Congress now met at Philadelphia who I thought had as much influence as any from this place, and he gave me assurances of his disposition being similar.

A great deal of Pains has been taken to perswade the Counties to chuse Delegates for the Congress or to

adopt those sent by this City. Several of the Counties have refused to be concerned in the Measures. In Queens County where I have a House & reside the summer Season six Persons have not been got together for the Purpose and the Inhabitants remain firm in their Resolution not to join in the Congress. In the Counties that have joined in the Measures of the City, I am inform'd the Business has been done by a very few Persons who took upon themselves to act for the Freeholders. A Gentleman who was present when the Delegates were chosen in Orange County says, there were not twenty Persons present at the Meeting tho' there are above 1000 Freeholders in that County: and I am told the Case was similar in other Counties that it is said have joined in the Congress.

The violent Men in this City who lost the Lead among the People when the Committee of 51 were appointed, as mentioned in my former Letters to your Lordship, hoped they had got an opportunity to regain their Importance & throw the city into Confusion, on occasion of orders which were received by some of our Merchants to furnish articles wanted by the army at Boston. These violent Men last Week, call'd a meeting of the citizens which few attended but the lower class of People, and not a great many of them, yet they had the Impudence to send a Committee to the Merchants who were engaged in supplying the articles wanted for the army at Boston, with a very Impertinent Message, and endeavoured to deterr them and all others from furnishing the Army or Transports with any Thing whatever. These Manouvers occasion'd some Bustle among the People for a few Days, and obliged the Committee of 51 to desire a meeting of the Inhabitants on Friday last; when a large Body of the principal People & Merchants appear'd & declared that those who had taken upon them to threaten the Merchants had acted without any authority from the Public, & highly disapproved of their Conduct, which has once more silenced the turbulent factious few, who are

never easy while the People are quiet and orderly. The Merchants go on completing their orders without farther Interruption.

It is my Duty to give your Lordship the best Information I am able of the Disposition of the People of this Province; with this view I mention the most material transactions among them. It is extremely difficult at such Times to give an Opinion of what may happen—A most trifling unforeseen Incident may produce the greatest Events. I have already said my Lord that I am well assured almost the whole Inhabitants in the Counties wish for Moderate Measures. They think the Quarrell with Great Britain is carried quite far enough, & abhor the thoughts of pushing the Dispute to any more desperate Lengths. In the city a large majority of the Merchants and People wish that a non importation Agreement may not be proposed, and were very much surprised on finding such a Measure would probably be resolved on by the Congress; I have some Hopes that our Merchants will avoid the non-importation Agreement even if proposed by the Congress I am certain a majority of the most Considerable are convinced it is a wrong measure, and wish not to come into it; but whether they will have resolution enough to oppose the sentiments of all the other Colonies, can only be known when they are put to the Tryal.

The Speeches in Parliament and other inflammatory Papers publish'd in London, & reprinted here in America make the worst Impression on the Minds of the People. They are opposed in this Place by publishing more Papers in favour of administration, and against Measures which may be offensive to Parliament than in all the other Colonies put together. The Pamphlet in Defence of the Quebec Bill which I received under cover from your Lordship's office is reprinted here.

Sir John Johnson has desired me to inform your Lordship that he is desirous of being appointed of the Council of this Province in place of his Father, de-

ceased. Sir William Johnson has deserved so much by his great and indefatigable services, that I can make no doubt of your Lordships Inclinations to give such an Instance of his Majesty's favour to the son of so worthy a Man. Sir John excuses his not making application sooner by reason of his affliction on the sudden Loss of so affectionate a Parent. As Governor Tryon is in England, I did not intend to trouble your Lordship with any Recommendation on this subject; but I would not reject such a request from the son of my old and much esteemed Friend. I am

TO THE RIGHT HON^{BLE} EARL OF DARTMOUTH.

No. 8.

New York, 2^d Nov. 1774.

I have received the honor of your Lordship's Commands of the 10th of Sept^r N^o 23.

The Congress at Philadelphia broke up last week. They have publish'd an Extract of their Proceedings of which I inclose your Lordship a copy. It was received in this Place only two Days agoe, so that there has not been Time to discover the general Sentiments of the People upon it. It is certain that the Measures of the Congress do not meet with rapid Applause Here; but on the Contrary the People, even in the City, appear dissatisfied. They continue, so far as I can discover averse to all violent and irritating Measures. The Merchants seem to disrelish the non-importation Association, and if I be not extreamly deceived the Farmers will not bear the non Exportation; but at present it is impossible to say with certainty, what steps the People will take in Consequence of what has been determined and advised by the Congress.

I think I may continue to assure your Lordship that a great Majority in this Province are very far from approving of the dangerous and extravagant Measures of

the New England Government—that they abhor the thoughts of a civil war, and desire nothing so much as to have an end put to this unhappy Dispute with the Mother Country.

Our Assembly have not met for some years past till the beginning of the year for the dispatch of their usual Business. Before that Time I will endeavour to learn whether I may hope that they will propose conciliatory Measures and pursue the Method which your Lordship so justly points out as most Proper. If they have reason to expect they will, I shall propose it, and use my utmost influence to have it done in a proper Manner.

Nothing material has happened in this Place since my last letter to your Lordship. The Merchants are at present endeavouring to sift out each others Sentiments upon the Association proposed by the Congress. A certain sign, I take it, that they wish to avoid it. General Haldimand left only half a dozen officers, and about 100 Men of the royal Irish Reg^t Here when he went to Boston. Some iron Potts and stores were ship'd from Hence last week, for the use of the Troops at Boston, without an attempt being made to prevent it. And about four score artificers went from Hence with Gen^l Haldimand to work on the Barracks There.

The Counterband Trade carried on between this Place and Holland, is my Lord an object that I behold with great concern. It prevails to an enormous Degree—must destroy the Morals of the People—create the most inveterate Ennemy's to Government—nourish the spirit of mobing, and abolish all fare Trade. It appears to Me that the officers of the Customs at this Place want more assistance than they at present have. There is not a Boat of any kind belonging to our Custom House. The Surveyor and Sarcher of the Port, who is my Grandson, has made several seizures within a few Months since he was appointed. He has been an officer in the Army, and was some Time in Quarters on the Isle of Man. He thinks two or three such Vessells as

they have there, under similar Regulations and Directions, would be the most effectual Means of stoping this illicit Trade. Men of War, even the Sloops, are too large for this Purpose, and besides the Captains seem to think it an indignity to become Custom House Officers.

As Mankind my Lord in general are most active when their Duty and Interest are connected, I think the officers and Men employed in this Service should have such an allowance out of the Seizures, besides a daily Pay, as would make it too Expensive for the Merchants to offer them any Thing nearly equal in Bribes. The officers of the Boats might likewise be frequently removed from one Port to another, in order to render Bribes ineffectual. A superior officer at each Port might have the direction of the Cutters and Boats independent of the Custom House which I am told is the Case at the Isle of Man.

My Grandson tells me that soon after he entered upon his office, he was made to understand that if he would not be officious in his Duty, he might depend upon receiving £1500 a year. His answer and Conduct has convinced them of his Integrity and Resolution to discharge his Duty with fidelity. I mention this my Lord as an Instance how highly the illicit Traders can Bribe.

The Vessells from Holland or St. Eustatia do not come into this Port, but anchor at some Distance in the numerous Bays and Creeks that our Coast and Rivers furnish, from whence the Goods are sent up in small Boats. I believe it would be very proper to make some regulations that might particularly discourage the Owners of these small Boats from engageing in this Business. Now, when they are seized, their Boats are sold at so low a price, that the Owners recover them with a loss that the poorest of them do not regard. The risque being so small they engage with the illicit Traders at low Wages. This increases the Profits of that Trade. But if all Boats and Vessells that did not fetch above certain Rates, to be fixed in proportion to

their Burthen, were ordered to be burnt or destroyed, the illicit Traders would find it much more difficult & expensive to procure the assistance they require. It is I think very probable that the Crown's share of the Seizures would, at first, defray the Expence of such an Establishment. The Fund would decrease as the illicit Trade decreased ; but then the increase of Duties paid, might be more than equivalent. Dutch Gun-Powder has been in use in this Colony ever since I came into it. How it was formerly imported I know not : I make no doubt all we now have is brought in clandestinely. I have not been able to learn anything of the ship Polly, Captain Broadhelp. I shall pay the strictest attention to your Lordships directions on this Subject, which appears to be a Matter of great Consequence.

I shall not neglect to observe your Lordship's commands, to lay before you, by every opportunity, an account of what occurs among us. I am, &c.

TO THE EARL OF DARTMOUTH.

N^o 9.

New York, December 7th 1774.

MY LORD,

Notwithstanding the Business which at this time agitates America, is such as to keep us continually expecting some Event of great Importance, what has occur'd in this Province, since my Letter to your Lordship of the 2^d of Nov^r has not been very Material.

The first Thing done by the People of this place in consequence of the Resolutions of the Congress, was the Dissolution of the Committee of 51, in order to choose a new Committee of Inspection, to carry the Measures of the Congress into Effect. A Day was appointed by Advertisement for choosing 60 Persons to form this new Committee. About 30 or 40 Citizens only appeared at the Election, & chose the 60 who had been previously named by the former Committee.

I can no otherwise my Lord account for the very small number of People who appeared on this occasion, than by supposing that the Measures of the Congress are generally Disrelished. The Non Importation Association affects the Smugglers as well as the fair Traders. No Tea is to be imported from *any* Part of the World, after the 1st Day of this Month. The Smugglers expect large Quantities of Dutch Tea, and insist that it shall be exempt from the effect of the Association. Others declare that the fair Traders shall not be the only sufferers. It is a Dispute which I think will very probably Defeat the Association. Several Vessels are yet expected with Goods from England and I am told 10 or 12 at Philadelphia. It is however shocking my Lord to reflect that smuggling is such a Business among us as to be publicly espoused by Numbers, and more strenuously advocated than the legal Trade.

In the present Committee of this Place there are several gentlemen of Property, and who are esteemed to favour Moderate and Conciliatory Measures. I was surprised to find such Men joining with this Committee whose design is to execute the plan of the Congress. I have at length discovered that they act with a view to protect the city from the ravages of the Mob. For this purpose they say they are obliged at present to support the Measures of the Congress—That if they did not the most dangerous Men among Us would take the Lead, and under pretence of executing the Dictates of the Congress, would immediately throw the City into the most perilous Situation That however considerable the Numbers may be who disapprove of violent & Lawless Measures, yet the Spirit of mobbing is so much abroad, it is in the power of a few People at any Time to raise a Mob; and that the Gentlemen and Men of Property will not turn out in Person to suppress them. I fear, my Lord, there is too much Truth in this Representation. It is a dreadful Situation. If We are not rescued from it by the Wisdom and Firmness of Parliament, the Colonies must soon fall into Distraction

and every Calamity annex'd to a total annihilation of Government.

Mr Gallaway, one of the Philadelphia Delegates, has been lately Here on a Visit. He favour'd Me with the Heads of a Plan for the Government of the Colonies, proposed by him to the Congress and seconded by Mr Duane of this Place. These Gentlemen are of Opinion my Lord that there is a defect in the Constitution of the British Empire with respect to the Government of the Colonies; and that the most effectual Means of reconciling the present unhappy Differences and for preventing the like hereafter, would be to obtain by Petition from the King & Parliament one general Constitution, that should establish a political union not only among the Colonies, but with Great Britain upon Principles of Safety and freedom to both. These were the guiding objects in Mr Gallaway's Plan, which underwent a debate in the Congress, and was enter'd on their Minutes; but was afterwards not only totally rejected, without proposing any Substitute, but expunged from their Minutes. I enclose your Lord^{sh} a Copy of the Plan, with two sets of introductory Resolves. How amazing is it my Lord, that when a rational Mode of Proceeding, evidently tending to a reconciliation, was introduced and supported by Men of the best Judgment, the Congress should prefer a Method big with Wickedness, Extravagance and Absurdity—A fatal Pride and Obstinacy seems to have govern'd them. The Delegates from Virginia were most violent of any—Those of Maryland and some of the Carolinians were little less so—These Southern Gentlemen exceeded even the New England Delegates. They together made a Majority that the others could have very little Effect upon—Mr Gallaway and Duane tell me that at the close of the Congress they Dissented from the Proceedings: and insisted to have their Dissent entered on the Minutes, but could not by any Means get it allowed.

The Assembly of this Province my Lord stand prorogued to the 10th Day of January, and by advice of

Council, summons's are issued for them to meet on that Day. Many People think there is a probability that they will go upon Conciliatory Measures and propose something that may be countenanced by Administration. The event is uncertain; but on such occasions I think every Thing is to be tryed that may possibly avert the Calamity which hangs over this Country. I do not apprehend there is any Danger that the Assembly will make Matters worse than they are. Several Pieces have been publish'd Here, exposing the extravagant and dangerous Proceedings of the Congress, and advising the People to rely on the Assembly, that they will take the most reasonable and constitutional Means of restoring Peace and Harmony between Great Britain and this Province.

To Gov^r TRYON.

New York, Dec 7. 1774

DEAR SIR,

I have the honor of your Excellency's Favour of the 3^d of October by Col. Fanning. I rejoice to think that you will be here to take the Reigns of Government from Me again next Spring. At this Time the State of the Province is very much as when you left it. How it may be next Spring no Man can foresee. The Proceedings of the Congress are disliked by almost all the better Sort of People. Yet there is an appearance of supporting the Non-Importation Association: but the smugglers being equally affected with the fair Traders by it, I find the Association will only be kept in appearance. Many People hope the Assembly will take a rational and conciliatory Method of settling the unhappy Difference. Under a Persuasion that they may do a great deal of Good, and cannot make Matters much worse than they are, I have call'd them to meet the 10th of January.

I am surprised at M^r Antill's application for the Surveyor Generals Office. He did not let me Me know

that He had any such Design, and must have been aware that I could not approve of it. He had not any authority from his Father in Law to make the Request.

I heartily wish your Excellency's Health may be confirm'd and that you may return in full strength & Spirits to us.

Pray present my aff^t Compliments to M^r Tryon—I am.

TO ANDREW ELLIOTT, ESQ.

New York, 15th Dec^r, 1774

SIR,

I inclose you Copies of a Letter which I this Day received from the Right Hon^{ble} Earl of Dartmouth, dated the 19th of October last, and of his Majesty's Order in Council referred to in his Lordship's Letter, which will in the best Manner explain to you the nature and importance of the Commands I have received. In obedience to which it is necessary for me to require of you Sir to take the most effectual Measures for arresting detaining and securing any Gun Powder or any sort of Arms or Ammunition which may be attempted to be imported into this Province for the space of six Months from the date of the said Order, unless the Master of the Ship haveing such military stores on board, shall produce a Licence from his Majesty or the Privy Council for the Exportation of the same from some of the Posts of the Kingdom of Great Britain. I am.

TO THE EARL OF DARTMOUTH.

N^o 10.

New York Jan'y 3^d 1775.

MY LORD,

The Office of Surveyor General of Lands in this Province being vacant, by the death of my eldest son,

I received the unanimous advice of his Majesty's Council to appoint my youngest son David to that office. There was a full Board, only one Member absent—The Tenure of the Commission for 50 years past has been during good Behaviour. It was never granted on Mandamus and I apprehend does not come under the Interdiction of that Instruction which expressly relates to the officers of Justice.

I flatter myself your Lordship will please to consider the Distress and Embarrassments I have encountered in the service of Government—The Manner in which I have supported the Supreme authority of Parliament—The odium of a popular Party which I have from thence felt, and to which I shall leave my Family exposed, and that this appointment of my son David to the Office of Surveyor General during his good Behaviour will meet with your Lordship's approbation and thereby become a lasting Instance of the Favour I received in my old Age, for the past services of my Life. I am, &c

TO R^t HON^{ble} EARL OF DARTMOUTH.

No. 11.

New York, 4th January 1775

MY LORD,

I have received your Lordship's Commands of the 19th of October with his Majesty's Order in Council of the same date, which I shall endeavour by every Means in my Power to execute in the most effectual Manner. I immediately communicated to M^r Elliott the Collector of this Port, the Orders which I had received, and gave him the necessary directions for the Conduct of the officers of the Customs. I am well assured he will be very attentive to this important duty. A day or two after this Order was received, one of the Custom House officers discovered 10 chests of arms, 3 Boxes of Lead and one B^l of Powder on board a Vessel bound to Rhode Island. It has been found upon enquiry that

these Arms were lately imported on board the ship Lady Gage, Captⁿ Mesnard, and it is said, were ship'd at London as hard Ware, but there was no lockett for them under any Denomination. M^r Elliott secured them all, and for greater safety sent them on Board the Man War in the Harbour, where they remain.

That sett of People, who by waiting for every opportunity to raise a Mob, and throw the City into Confusion made an infamous attempt to frighten M^r Elliott into a surrender of the arms, which they insisted were legally imported. The principal Gentlemen and Merchants to prevent Mischief, waited upon M^r Elliott in a Body, assured him they were perfectly satisfied with his Beheaviour, and declared warmly against any who should attempt to insult him on account of w^t had happened, which silenced the others, who were working in the Dark, and endeavouring to raise the Populace.

My Lord, the measures pursued as well by the southern as eastern Provinces puts the Moderate & peaceable Disposition which prevails among the Majority of the People of this Province daily to the tryal. Enthusiasm is ever Contagious, and when propagated by every artifice becomes almost irresistable. The Assembly of this Province, as I formerly inform'd your Lordship are to meet next Tuesday. If I find that there will not be a Majority for prudent Measures, I shall incline to Prorogue Them for a short Time, that the Plan of the New Parliament may be known here, before the assembly do any Thing. On the other Hand there is room to fear, that if the Assembly do not meet, an attempt will be made to convene a provincial Congress, in imitation of our Neighbours, which may be of more Consequence. I propose to take the advice of his Majesty's Council Tomorrow upon the interesting and important situation of affairs. When all depends upon the Humour of the Populace, one can only, my Lord, form very uncertain Conjectures of future Measures. I can only say with certainty that there is still a good Ma-

jority of the most respectable People in this Place who promote Peace and discountenance Violence. I am—

TO THE RIGHT HON^{BLE} LORDS COMMISSIONERS FOR
TRADE AND PLANTATIONS.

N. Y. 3^d Jan^y 1775.

MY LORDS,

In obedience to his Majesty's Commands signified by the R^t. Hon^{ble} Earl of Dartmouth, I now have the honor to transmit to your Lordship's a List of the Council of this Province, viz:—

CADWALLADER COLDEN, L ^t . Gov ^r .	ROGER MORRIS
DANIEL HORSMANDEN, Chief Jus-	WILLIAM SMITH
tice	HUGH WALLACE
JOHN WATTS	HENRY WHITE
OLIVER DELANCEY	WILLIAM AXTELL
CHARLES WARD APTHORP	JOHN HARRIS CRUGER.

These Gentlemen live in or near the City and give constant Attendance when Business is to be done. None of them are absent at present—The only Vacancy is by the Death of Sir William Johnson. I am.

TO GUY JOHNSON, ESQ.

New York 13th Jan^y 1775

DEAR SIR,

I am sorry your attention to the Business of the Indian Department, will not admit of your coming down to the Assembly. We shall require the assistance of every Friend to Government. I likewise think the Business which concerns George Klock & the Indians will stand in great need of some Person to be active in it here. When I sometime agoe laid the Matter before

the Council they were of Opinion that an act of the Legislature would be the best Means of doing Justice to the Indians. But if it is laid before the Assembly and you are not here to manage the Business in the House I apprehend nothing will be done. I propose to lay the Complaints of the Indians again before the Council, and if they continue in their former Opinion, I shall recommend the Business to the Assembly in the way the Council shall advise. It is necessary that I should be furnished with a copy of the Release to the Indians which has been executed by some of the Proprietors, and every other Paper and Matter of Evidence which you can inmagine will be necessary in case the Assembly go upon it. But I am afraid nothing will do unless you are present yourself. I received your Packett for the Secretary of State, after the Mail, which went from hence last week was closed and dispatched from the office. However I had just Time enough to deliver it to the Captⁿ of the Packet, with particular Directions to take care of it. He will deliver it into the office at Falmouth, and in that way Letters go very safely. Come down if you possibly can. I am.

TO THE RIGHT HON^{BLE} EARL OF DARTMOUTH.

[No. 11 a.]

New York, 21 January 1775.

MY LORD,

The Address which I received yesterday from our House of Assembly has given Me so great satisfaction, and appears to Me to be of such Importance at this Time that I think it my Duty to lay hold of an Opportunity by a Merchant ship going from Hence to Exeter to transmit to your Lordship my Speech at the opening of the Sessions and the Councils and Assembly's Addresses. It was some Days before a sufficient number of Members got to Town to make a House, and there are still twelve of their number absent, which has

occasioned the House to put off the farther consideration of their Important Business to the 7th of next Month, at which Time they have ordered all their Members to attend. It is thought my Lord that there is at least as many Friends to Government among the absent Members, as Advocates for the late Congress, and that the House will therefore when they are all together, be able to act up to the Sentiments of their Address. Every Machination that restless Spirits can devise will in the mean Time be exerted to obtain an approbation of the Proceedings of the Congress, which is the grand Point they aim to carry. This delay to the 7th of next Month, will however, my Lord, give Us an opportunity of receiving his Majesty's Speech and the Addresses of the two Houses of Parliament, which We hope the December Mail will bring out. The sentiments of the new Parliament is a Matter of great importance. I am.

TO GENERAL GAGE.

New York 29th Jan^r 1775.

SIR,

I have very great Satisfaction in being able to inform your Excellency that upon a Motion made in our House of Assembly, on Thursday last, to take into consideration the Proceedings of the Congress it was carried that they should not. The Party in the House who wish to have the Measures of the Congress approved of and adopted by the Assembly, took the Advantage of bringing the Question on, when there were ten Members absent, and had counted Nose's so well that there was a Majority but of one against them, besides the speaker, who did not Vote. The City Members all voted against the Question. It is imagined, and I believe rightly that all the members who are now absent, will join the Majority so that I hope there is no danger that any Thing will hereafter

be carried contrary to the sentiments the House have expressed in their Address to Me, and confirmed by the Determination of Thursday. I expect however that We shall be teized throughout the Sessions with one Machination or other of the disconcerted Party. Everything is at present very quiet and in good Order here. The peaceable Disposition of the People of this Province will become every day more evident, and give some check to the Mad Career of their Neighbours, which may be of essential service to the whole Continent. We hear the Assembly of New Jersey have approved of the whole Proceedings of the Congress—thank'd their Delegates and have appointed the same to attend the proposed Congress in May. It is now given out by the Sons of Liberty Here, that no Commerce will be admitted between this Province and any of our Neighbours. I am, Sir.

TO THE EARL DARTMOUTH.

No. 12.

New York, 1st Feb^y 1775.

MY LORD,

Yesterday I had the honour to receive your Lordship's circular Letter of the 10th of December, with his Majesty's most gracious Speech and the Address of the Lords and Commons—and your Dispatches N^o . . . of the same date.

The Assembly of this Province which was to meet on the 10th of last Month, did not make a House till the 13th when I opened the Sessions with a Speech which I have the honour to enclose to your Lordship. The Councils address did not give so much satisfaction, even to the People, as that which I received two Days after, from the Assembly. I am happy in haveing it in my Power to transmit to your Lordship an Address which I am persuaded it will give you Pleasure to lay before his Majesty, and will confirm the favorable

Opinion he is gracefully pleased to entertain of his subjects in this Province.

Altho' the address pass'd in the House with only one Dissentient Voice, there is a Party in the Assembly of very different Principles who I expect will be continually endeavouring to do Mischief. Finding a great Majority against them when the address pass'd, they mov'd to have a call of the House on the 7th of February, and that the Consideration of the weighty Business which was before them should be put off to that Day. This the House agreed to, and immediately sent out Orders for the absent Members to attend. However, two Members coming in last Week, who were known to be violent in the Opposition to Government, a Motion was made that the House should take into Consideration the Proceedings of the Congress held at Philadelphia in Sept' last. A warm debate ensued, and upon the previous Question the Motion was rejected by 11 to 10. These ten are, my Lord, the whole strength of that Party. The nine Members who were not in the House, it is well known, will join the eleven. When they come in, the Majority will be so strong that I hope the House will not again make so near an Escape from a Motion brought by surprise upon them.

When your Lordship considers that every American Assembly which has sat since the Congress was held at Philadelphia, have approved of and adopted the Proceedings of the Congress; and that in those Colonies where their Assembly has not met, the People have in Provincial Congress, or otherwise done the same; the loyalty and firmness of the Assembly of this Province, and of the People in general, will appear in a very striking light. I am persuaded his gracious Majesty and his Ministers will encourage this good and singular Disposition by such Instances of Distinction and Favour as shall be wisely calculated to render most evident the good effects of the Conduct of this Province. Yesterday, before the Pacquet arrived, a Motion was made and agreed to in the Assembly, to appoint a Day

to take into Consideration a state of the Greivances of this Colony; to make an humble, firm, dutifull, and loyal Petition to the Throne; a Memorial to the Lords, and Representation & Remonstrance to the Commons of G^t Britain. A committee was appointed for this Business who are to Report after the call of the House on the 7th of this month.

I have strong Expectations, my Lord, that the Conduct of this Province will every Day more evidently shew the loyalty and affection of the People for their gracious Sovereign, and their earnest desire for a Reconciliation with G^t Britain.

I enclose your Lordship a Paper published last Week by the Quakers of Philadelphia; they are likewise a very respectable Body of People in this Province. It is immagined the Address of our Assembly was even a great Means of producing this Paper from the Quakers. 'Till the Address appeared, every Body was afraid to oppose what seemed to be the universal Sentiments of all the Continent.

I thought the Address of our Assembly was of such Consequence that in order to give your Lordship the earliest Intelligence of it, I transmitted it to you by a Merchantman who sailed from this Port for Exeter the beginning of last Week. I am

TO CAPTⁿ MONTAGU OF HIS MAJESTY'S SLOOP KING
FISHER.

New York, 8 Feb^r 1775.

SIR,

Altho' no Complaint or Information has been laid before Me by any Person, relative to the ship from Glasgow which arrived last Week in this Port, yet the act of Outrage and Violence by which she was carried from the wharf & is detain'd near the Watering Place is so notorious, that I thought it was my Duty to take

the Opinion and advice of his Majesty's Council upon it, who have advised Me to apply to you to go down to the ship and to offer the Master your Assistance.

The sooner this is done I think the better. I am

TO CAPTAIN MONTAGU OF HIS MAJESTY'S SLOOP KING FISHER.

New York 9th Feb^r 1775.

SIR,

The Letter of this Day which I had the favour to receive from you informing Me that . . . the Sloop with arm'd Men on board, close to the Glasgow Ship, to prevent her from coming up to Town, I have laid before his Majesty's Council; and by their advice I do request that you will take care that no Injury be done or any restraint laid by the said Sloop, on the Glasgow Ship; and that if the Master of the Ship do apply to you, you do assist him in bringing his Vessel up to Town, or give him every other necessary aid he may ask for. I am

TO CAPT^m MONTAGU.

New York, 12th Feb^r 1775.

SIR,

I am informed that there is a large Quantity of Ammunition on board the Ship Bulah which is daily expected Here from London. There cannot be a Doubt but that this Ammunition has been ship'd since the King's prohibitory Proclamation and I therefore communicate to you this Information.

TO GENERAL GAGE.

New York 20th Feb^r 1775.

SIR,

Your Congratulations on the Success of the Measures I took with our Assembly are very obliging and grateful to Me. It appeared on two occasions last week that the Majority are encreased, and that the Minority have gain'd no strength. A Motion has been made to return the Thanks of the House to the Delegates who attended the Congress at Philadelphia, it was carried in the negative 16 to 9. Next Tuesday Col. Livingston is to move that the Thanks of the House be given to the Merchants and Committees who have supported the Measures of the Congress. The Majority will be at least as great on the Negative side of this Motion. These turbulent Spirits take a strange Method of teizing the House after they had so fully declared their Sentiments by refusing to introduce the Proceedings of the Congress. The Committee of Grievances are this week to make their report, and I suppose will have their Petition ready to transmit by the March Mail. The Quebec & Boston Bills have been rejected in the Committee as not comeing within the Grievances of this Colony. I suppose they will have the Battle to fight over again in the House, but the Majority seem to be very firm. M^r Gallaway of Phil^a writes to me that the People of their Province begin to think for themselves, and that the Friends of Order hourly encrease. Their Assembly was to set again last Week, and he hopes that they would come together with very different Sentiments from those they adopted at their last setting. I believe the example of this Province will have very good Effects.

I have left the inclosed Letter to Admiral Graves open for your Excellency's perusal that you may see the reasons which induced me to suggest to him the Propriety of sending one of the large Men of War to

this Port. You will please to seal this Letter, and send it to the Admiral or not, as you shall think will be most for his Majesty's service.

Your Excellency will believe I was much shagreen'd that a ship which arrived here from Glasgow should be sent away with her Cargoe in compliance to the orders of the Congress. The Captⁿ was a stupid Body who would neither make a complaint nor ask for assistance. None of the Consignees had Resolution enough to Demand their Goods, so that it was impossible for Government to interfere to any good purpose. There is now a ship from London at the Watering Place. The Captⁿ I am told appears to be a spirited Man, and has said he will land his Cargoe. If he makes application We shall give him all the assistance We have. What is to be done is not yet determin'd by either side. I am &c.

TO ADMIRAL GRAVES AT BOSTON.

New York, 20th Feb^r 1775.

SIR,

You will perceive from the public Prints that the assembly of this Province refuses to adopt the Measures of the Continental Congress, and takes the Lead towards a reconciliation between Great Britain & her Colonies. Tho' this be the true state of a great Majority of the People and of Men of the best Fortunes, yet We have among Us a sett of violent Spirits of the lowest rank and desperate Fortunes, countenanced by a few of superior Condition who lay hold of every occasion to raise Mobs and excite Sedition. On the side of Government are the Moderate Men, who by all means avoid Disorder and Confusion, which gives an advantage to the hot heads on the other Side. It seems reasonable that the Friends to Government should be as much Protected as his Majesty's more urgent Service will permit.

We have at present only 100 private soldiers in this Place, tho' we have had at least one Regiment ever since the Peace till now.

The Colonies to the Southward threaten this Colony and declare they will join the Massachusetts. Tho' I cannot believe there is any other Design than to bully, yet as no Man can tell what Men in a Phrensy may do (which seems to prevail over the Continent) it will be inexcusable not to be prepared against every Event, especially after it is threatened. Hudson's River must be passed before any Body of Men can join Massachusetts from the Southward of this. For 100 Miles above this Place there is not less than 24 Feet Water anywhere in the Channel as I am assured by a Gentleman who carried a Mast ship of 600 Tuns up that Distance last summer. Now, Sir, I must leave it to your Judgment whether it may not be for his Majesty's Service to send a large Ship to this Port, which can on occasion put two or three hundred Men on Shore, and to send small Vessells to obstruct the Passage of the River, if it afterwards should be found expedient. I am, &c

TO LORD DARTMOUTH.

No 13.

New York, 1st March 1775.

MY LORD,

I inform'd your Lordship in my last Letter of the 1st of February that, the Assembly of this Province had resolved to Petition the King &c. The Committee of the House appointed to state the Greivances of the Colony did not Report till the End of last Week. The Report was recommitted to a Committee of the whole House, and is to be taken into Consideration this Day. They have not got their Petition ready to transmit by this Packet. I was inform'd that the Boston and Quebec Bills were at first rejected in the Committee as not being Part of the Greivances of this Colony; it seems

however they were at last brought into the Report, and I am affraid may not now be got rid of in the House. The Assembly have been very Firm in rejecting several attempts to draw them into an approbation of the Proceedings of the Continental Congress. The Numbers on the Negative Side have been nearly two to one of the Affirmative. Last Week a Motion was made to take the Sense of the House on the necessity of appointing Deligates to join the Continental Congress in May next, which passd in the Negative 17 to 9.

It is surprising my Lord that notwithstanding the firmness with which the Assembly have Discountenanced the Measures of the late Congress, and the approbation with which this Conduct of the Assembly has been received by a large Majority of their Constituents, yet the Non-importation Association of the Congress, is rigidly maintained even in this Place. Two Vessells have arrived here since the 1st of February: the first from Glasgow; no Part of her Cargoe was landed, but was sent with the Vessell to Jamaica—Neither the Master of the Ship, nor those to whom the Cargoe was consign'd, would demand any Assistance, or shew'd any inclination to have the Goods landed. It was not therefore possible for Government to interfere with any Propriety. The second Ship is from London, She still lies a few Miles below the Harbour, and it is said, is to [sail] with her Cargoe to Halifax. Neither the Master nor Owners of this Ship or Cargoe have made any Application to Government. The Success my Lord, which the violent Party have had in preventing these Vessells from Landing their Cargoes here, has given them great Spirits, and is a Strong Counterpoise to the Conduct of the Assembly.

The Enemy's of Government do all they can to propagate an Opinion that the Ministry will yet draw back, and quiet the Colonies by a repeal. They constantly hold up the Case of the Stamp Act, and find this an argument which influences many Friends to Government to lye by. I do not doubt they will before

long be convinced of the folly of such Expectations. But at present I really think my Lord such an Opinion has a good deal influenced the Measures that have been pursued Here, so contrary to the Spirit of the Votes of our Assembly.

Since it was known that our Assembly would not appoint Delegates for the May Congress, the Mischeivous Folks have been very busy at work endeavouring to bring about a Provincial Congress in this Colony, in order by that Means to have provincial Delegates appointed. They may no doubt get some People to meet, and these may take upon them to act for the whole Province tho' not a twentieth Part: I find many People fear this Business may embroil the Colony in Troubles, that have been hitherto kept at a Distance.

We have had only 100 Men of the royal Irish Reg, in this Place for several Months past, and the King Fisher Sloop of War. The moderate Inhabitants have constantly expressed a Wish that We had a more formidable military Power in the Place, to awe the Licensious & encourage the Friends of Government. Convinced that it would be for his Majesties Service, I wrote to Admiral Graves on the 20th Ult^o and suggested to him the utility of sending one of the large Ships from Boston to this Place. I mention'd of what Consequence it would be to keep the command of Hudson's River, which must be pass'd by the southern People to come at the Eastern. The Idea of their really fighting the King's Troops, is so full of madness and folly, that one can hardly think seriously of it, yet my Lord a neglect of proper Precautions may Encourage the wild Enthusiasts to attempt what they would not otherwise venture upon.

Except the Measures that are pursued in support of the non Importation Association, the People of this Province are in other respects very quiet, and shew no Inclination to Copy the extravagant Schemes of their Neighbours.

I send your Lordship a Pamphlet lately publish'd in

this Place. It is wrote by M^r Galloway of Philadel-
phia. I am &c.

TO GOVERNOR TRYON. '

New York, 1st Feb^y 1775.

DEAR SIR,

The moderate and prudent Conduct of the People of this Province for which I am certain your Excellency is warmly interested, will give you particular satisfaction: I have therefore very great Pleasure in transmitting to you my Speech at the opening of the Sessions of Assembly on the 13th of last Month, and the Addresses of the Council and Assembly. The Affectionate and Confidential Manner in which those public Bodies continue to express their Regard for their absent Governor gives Me very great Satisfaction, and must be highly agreeable to you. All the City Members—the Statten Island Members—Col. Philips and M^r Wilkins of Westchester—two from Long Island, and some others are firm on the right side—Captⁿ Delancey and M^r Wilkins take the Lead on that Side—Col. Schuyler and Clinton hold forth in the Opposition,—De Noyelles is dead, and an Election now makeing for a new Member—Col. Johnson & his Colleague, Ten Eyke of Albany and Six others, who will all join in the right side, have not yet made their appearance.

On Thursday last M^r Ten Brook moved that the House should take into Consideration the Proceedings of the Congress. Col. Philips proposed the previous Question—a warm Debate ensued; and upon the previous Question M^r Ten Brook's Motion was rejected by 11 to 10. They will not again have so near an equality, as all the Members who are to come up will join the Majority.

Yesterday, before the Packet arrived, the Assembly agreed to Petition the King—Memorial the Lords, and Remonstrance the Commons which is to be done after

the call of the House which is to be on the 7th Ins^t. The loyal and peaceable Disposition of this Government will every day become more evident—We are **at** this Time entirely Quiet, while all our Neighbours appear to be in the utmost Disorder and Confusion.

I am sorry we have not had the Pleasure to hear from your Excellency by the Packet which arrived Yesterday. I hope it has not been want of Health which prevented you from writing. I entertain great Expectations of being able to deliver back the Reins of administration to you, in such a state of the Government as will give Us both the greatest Satisfaction. I am

TO HIS EXCELLENCY GOVERNOR CARLTON.

New York, 11th March 1775.

SIR,

Last Night a Packett arrived from Falmouth, by which I received a Box for your Excellency, with Directions from Lord Dartmouth to forward it to you by a particular Messenger. The Post for Quebec sets out from Hence this Evening. I have consulted with the Post Master and others who agree that the common Post will be a more safe and speedy Conveyance than any other I can get. Your Excellency will please to do Me the favour to let Me know that you have received those Dispatches.

The Assembly of this Province have steadily opposed the Measures of this Congress, and are now preparing Petitions to King and Parliament. A wicked Faction in the House have endeavoured to thwart every prudent moderate Plan, and have tried all their art to bring this Colony into the same dangerous & extravagant conduct which disgrace the conduct of our Neighbours: but the Majority in the House have been firm, & I am now satisfied they will make some Overtures for reconciliation that the Ministry may receive. I am &c.

TO THE EARL OF DARTMOUTH.

No. 14.

New York, 4th April, 1775.

MY LORD,

The General Assembly of this Province, being yesterday adjourn'd by my directions to the 3^d Day of May, I am now to give your Lordship some account of the Bills which have pass'd. I have assented to 71, and refused two, viz: a Naturalization Bill, and one for making perpetual a single Section of the Quit rent Act. It has been on this Occasion mentioned to Me my Lord, that his Majesty's Instruction prohibiting his Governors from passing a Naturalization Bill, operates very partially to the prejudice of this Province, surrounded as We are, by Charter Governments, in which such Instructions have no effect. Many usefull foreigners are by this Means driven out of this Province, where they cannot acquire Landed Property, and settle in the Charter Governments where they meet with the greatest Encouragement. The Bill for perpetuating a section of the Quit rent Act, I did not assent to. I thought it was inadvisable to make any part of that Bill perpetual, while those which provide for collecting the Quit rents are left to expire.

A Militia Act appeared to Me to be very expedient at this Time, to prevent the confusion the Province would otherwise be thrown into by the Endeavours that some People would certainly make to establish a Militia by election of the People. This was so strongly represented to Me, by the Friends of Government, that I could not doubt of the propriety of passing the militia Bill.

Upon the Act for the general Quiet of his Majesty's Subjects in this Colony, against all pretences of concealment whatever, I need only observe to your Lordship that it is pass'd with a suspending Clause, & therefore it is entirely in his Majesty's Power to give it effect or not.

There are only two other Acts on which it is necessary to trouble your Lordship with any Observations; the rest being chiefly to revive former Acts, with a few new ones for ordinary and immaterial Purposes.

The Act to regulate Elections for Representatives in Gen^l. Assembly for the City and county of Albany, is thought necessary to prevent the exorbitant Influence which the very large Mannors in that County gave to the Proprietors or Lords of the Mannors as they are call'd. There are two Mannors and a Burrough my Lord, which each send a Representative to the Assembly, besides the two that are returned for the City and County. The Freeholders in the Burrough and Mannors have had a Right to Vote in the County, as well as in the Burrow or Mannor, upon a Freehold which lay in the Burrough or Mannor only. This Right they have never exercised but should they at any Time do it, they are now become so popular that it is in their Power to determine every Election in the County, & may in effect Return all the five Members. In this Light the People of the City and county view the privilege claimed by the Mannors as dangerous to them; and in my Opinion it may be very disadvantageous to Government that any one or two Families should be able to return so large a Proportion of the Members of our Assembly. The present Representatives of the Mannors have distinguished themselves in the opposition to Government, and were the warmest supporters of Congress. I therefore thought it was a proper Time my Lord to abridge this Privilege when the Majority both in Council and Assembly were for it. It may not be in the Power of Government hereafter to have it done when the Effects have taken Place.

Another Act which your Lordship may take notice of is that for admitting the mode of administering an Oath practiced in Scotland to be used by such Persons in this Colony as make matter of Conscience of it. There are many sober discreet Inhabitants, who from the prejudices of Education have suffered great uneasi-

ness for want of such an Indulgence in this Government. No alteration is made by this act, but that of holding up the right Hand in place of kissing the Book. I could not therefore my Lord discover any Thing to induce Me to refuse my assent to the Bill, which the Council and Assembly upon mature deliberation thought proper to pass.

TO THE EARL OF DARTMOUTH.

No. 15.

New York 5th April 1775.

MY LORD,

I have received your Lordship's Commands of the 7th of January and your Circular Letter of the 4th of the same Month. I have the pleasure to inform your Lordship that the conduct of our Assembly with respect to the Congress proposed to be held at Philadelphia in May is entirely agreeable to his Majesty's sentiments as expressed in your circular Letter. No Person has been appointed by Them to attend that Congress; and when it was proposed in the House, the Motion pass'd in the Negative by a large Majority. The disaffected Party are however exerting their utmost influence to obtain an appointment of Delegates by the People. It is not in the Power of Government to prevent such Measures. They are supported by Individuals in their private characters, and do not come within the energy of our Laws. Your Lordship may however be assured that a great Part of the People are against the appointment of Delegates to meet the May Congress, and that their Disapprobation will be public. I therefore hope that his Majesty will look upon the Majority in the Assembly as speaking the real sentiments of their Constituents.

When I reflect my Lord upon the Event of this Sessions of Assembly, how much the Measures pursued have tended to preserve this Government from the dangerous and extravagant Plans which are pursued in al-

most every other Part of the Continent, the Loyalty, Moderation and Affection with which they have laid their Grievances before his Majesty and Parliament: and the hearty Disposition they have testified to obtain a permanent Reconciliation, I feel a satisfaction which can only be heightened by his Majesty's approbation, and the final happy accomplishment of this important Business.

On Monday last I gave my assent to all the Bills which passed the Council and assembly, except two, and then directed the Speaker to adjourn the House to the 3^d of May. In another Letter I give your Lordship a particular account of the Bills.

I now transmit the printed Journals of the Assembly from which your Lordship will be able to judge of the Disposition of the different Parties; and I am persuaded you will be convinced that the Majority in the Assembly have acted from a most sincere Inclination to accomplish a permanent Reconciliation with Great Britain.

About a Month agoe I received Accounts of further outrages and most illegal Proceedings of the Bennington Mob of which your Lordship has already heard so much. Their acts grow from Time to Time more daring and dangerous. They have now had the hardiness to seize a Justice of the Peace, to try him before a mock tribunal of their own, and formally to pass Sentence upon him, and after inflicting a Punishment of 200 Lashes to banish him from that Part of the Country which they call their own. Indeed the authority of Government is entirely lost among them, and I am afraid cannot be restored but by force. They began with pretending only to hold Possession of the Lands on which they had settled, but your Lordship may be assured they have extended their Designs much farther, and are daily becoming more and more formidable and dangerous to Government.

I have lately received accounts likewise my Lord of a dangerous Insurrection in Cumberland County of this Province which is connected with Massachusetts Bay on

one side and New Hampshire on the other. A number of People in Cumberland work'd upon by the Example and Influence of Massachusetts Bay embraced the dangerous Resolution of shutting up the Courts of Justice. With this design they took Possession of the Court House immediately before the Court of Common Pleas and General Sessions of the Peace were to be open'd there in March last. They persisted with so much obstinacy to resist the Sheriff and his Posse that he was obliged to have recourse to fire arms, by which one of the Rioters was kill'd and several wounded, upon which they quitted the House, & the Courts were open'd. But by the next Day such Numbers had joined the Rioters from Massachusetts Bay and New Hampshire, as made them too powerfull for the Magistrates. They took one of the Judges, the Sheriff, Clerke of the Court and several others, Prisoners—confined them several days in the Goal of their own County, and then carried them into Massachusetts Bay, and put them into the Goal of North Hampton, where they still were, when the last Accounts came from Them.

It was necessary for me, my Lord, to call upon the Assembly to Aid Me to reinstate the Authority of Government in that County, & to bring those atrocious offenders to punishment. They have given £1,000 for this purpose—too small a sum for so much to be done with: but the Party in the Assembly who have opposed every Measure that tends to strengthen or support Government, by working on the parsimonious Disposition of some of the Country Members had too much Influence on this occasion. I am now waiting for an answer from General Gage, to whom I have wrote on this affair in Cumberland County, and by his Assistance I hope We shall be able soon to hold a Court of Oyer & Terminer in the County where I am assured there are some hundreds of People well affected to Government, and that if the Debts of the People who have been concerned in this outrage were all paid, there would not be a six Pence of Property left among them. It is

proper your Lordship should be informed that the Inhabitants of Cumberland County have not been made uneasy by any Dispute about the Title of their Lands; those who have not obtained Grants under this Government, live in undisturbed Possession under the Grants formerly made by New Hampshire. The Rioters have not pretended to raise up such a Pretence for their Conduct. The Example of Massachusetts Bay is the only Reason they have assigned. Yet I make no doubt they will be joined by the Bennington Rioters who will endeavour to make one common cause of it, tho' they have no connection but in their violence to Government.

Some Weeks before I received his Majesty's Commands for locating Col. Ord's Land, I had sealed a Pattent granting 5,000 Acres of Land to him upon his Mandamus in another part of the Country, where his agent had petitioned to have it granted before Governor Tryon went from Hence. It was, therefore, out of my Power to comply with his Majesty's Directions.

TO GOVERNOR TRYON.

New York, 5th April 1775.

DEAR SIR,

I have great Pleasure in being able to inform you, in answer to your Excellency's Letter of the 2^d of January, incloseing an Extract of a Letter from Lord Dartmouth, that our Assembly have pursued a Plan of Conduct which I hope will be satisfactory to his Majesty and his Ministers. They have sent a Petition to the King, a Memorial to the Lords, and a Remonstrance to the Commons, all expressed, especially the Petition to the King, in a very moderate decent style. I am persuaded it will give you some concern Sir, to hear that Col. Schuyler, Ten Brooke & S^d Livingston made a violent Opposition in the House to these Meas-

ures, and have made it evident throughout the Sessions, that they wish'd to bring this Colony into all the dangerous & extravagant Schemes which Disgrace too many of the Sister Colonies. They openly espoused the Cause of the last Congress, and strove hard to have Delegates appointed by the House for that which is to be held in May. They are now gone home to get that done by the election of the People which they could not effect in the House. Mr. Wilkins and Captain De Lancey took the Lead on the Side of Government with great firmness. Mr. Wilkins has been of infinite service; and was the only one able to cope with the opposition as a Speaker in the House.

It gives me great satisfaction to reflect that the Conduct of our Assembly has been such as must confirm the favourable Opinion his Majesty is pleased to entertain of this Province. Whatever disagreeable Measures may be pursued by particular Parties, I hope it will be imagined that the Assembly have acted according to the Sentiments of a great Majority of their Constituents which I really believe to be the case.

There is at the Rate of £2000 p^r An. given to Me in the last support Bill for administering the Government from the 6th of April last to the 1st of September next. I know of no Instruction to prevent my takeing this Money. That which is enter'd on the Council Books among your Instructions is an old one, and literally the same with what all our Governors for many years past have had, who all notwithstanding received a Salary from the Assembly, and were not, to my knowledge, found fault with for so doing. The Intent of that Instruction is to prevent the Governor from taking Presents for particular Services. It must be very disgusting to the Assembly to refuse to accept of a Sallary given by them, without being able to give a sufficient Reason for it.

We are waiting with great impatience for the arrival of a Packett—that we may know the Resolutions of Parliament. The People are at present deluded with an

Opinion that all the obnoxious Acts will be repealed, & that Parliament will yield implicitly to the Clamours of America. The Pause occasioned by the Hollidays after the Proceedings of the Congress were received in England, and the Letters wrote from thence have given the Sons of Liberty a good opportunity for spreading such Reports, which have greatly encouraged the Opposition and discouraged the Supporters of Government.

The Benington Rioters grow more and more insolent, and I am persuaded will not be brought to pay any obedience to legal Government but by Force.

There has been an allarming Insurrection in Cumberland County, in order to prevent the Courts of Justice from seting, which they as good as effected. The Insurgents took one of the Judges, the Sheriff, Clarke &c, Prisoners. The Sheriff beheaved with great Prudence and Resolution. One of the Rioters was kill'd by the Sheriffs Party, and several wounded. He was at length overpowered by Numbers and obliged to yield. The rioters carried their Prisoners into Massachusetts Bay Government where they remained in confinement when we last heard from them: but it is expected they would soon be set at Liberty. This Insurrection in Cumberland has no connection with any Dispute about Lands. It is a contagion spread from Massachusetts Bay. I fear it will spread farther, and throw the whole Province into a dreadful Situation if Parliament do not support their authority, and punish some of the rebellious Leaders in America.

TO LORD DARTMOUTH.

No. 16.

New York, 3^d May 1775.

I have received your Lordship's Dispatches of the 22nd of February and 3^d of March, both Circular; with one Private of the last Date. Likewise your Letter N^o 28.

In all my Correspondence I have studied to give your Lordship an exact Idea of the real State of the Province, and of the most material Transactions of the People. The Accounts which I am now to give will almost entirely destroy the Expectation you have had reason to entertain of the Conduct which this Province would pursue. Yet I am persuaded, the Proceedings of our Assembly, and other Information which I doubt not your Lordship has received will justify the Representations I have made.

The Disunion of the Colonies being held up in America, and by many in Britain likewise, on the only Thing which could defeat the Measures of the Congress, the Moment that the Legislative Body of this Province deviated from the general Association of the Colonies and pointed out a different Conduct, a Design was evidently form'd in the other Colonies to drive the People Here from acquiescing in the Measures of the Assembly, & to force them into the General Plan of Association & Resistance. This Design was heartily seconded by many among ourselves. Every species of public and private Resentment was threatened to terrify the Inhabitants of this Province if they continued Disunited from the others. The certainty of looseing all the Debts due from the other Colonies, which are very considerable, and every other Argument of private Interest that could Influence the Merchants, or any one, was industriously circulated. The Minds of the People in this City were kept in constant agitation by Riots and attempts to stop the Transports loading Here with Stores Provisions &c. for the Army. The want of any Degree of Resolution among the Magistrates to support the authority of Government in opposition to popular Measures rendered the Leaders of the People insolently Bold and Daring. The Friends of Order and Government saw no Protection either in the exertions of the Magistrates or the feeble Aid that could be afforded by the very small Body of Troops quartered in this City to protect their Persons or Property from Ravage and

Violence. Several Incidents combined to depress legal authority—to increase the Terror of the Inhabitants, and which seemed to vanquish every thought of Resistance to popular Rage—In this unfortunate state of the City, the first accounts of the action between the King's Troops and People near Boston was spread with horrid and aggravating circumstances. The Moment of Consternation and anxiety was seized, the People were assembled, and that Scene of Violence and Disorder was begun which has entirely prostrated the Powers of Government and produced an Association by which this Province has solemnly united with the others in resisting the Acts of Parliament. The Gentlemen of his Majesty's Council, in support of their advice for proroguing the Assembly to the 7th Day of June, having gone into a particular Detail of the most material Transactions of the People from the 23^d of last Month to the present Time, I beg leave to refer to the inclosed Extract of their Minutes. It contains a full description of the present state of the Province which at this time I think will be most properly laid before his Majesty in their own words. Two of the Council have this moment informed Me that a copy of the Minutes has been shewn to the City Committee, and that they have sent to request that it may be transmitted Home.

The Pretence for the Necessity of shutting up the Custom House was to prevent the Exportation of Provisions of which it was said all there was in the Place would be wanted for the armies of the Colonies. But it is more probable that the real Intention was, my Lord, to strike Terror by the boldness of the action. Having affected this Purpose and established the absolute Power of the Committee, the Keys of the Custom have been returned to M^r Elliot; but at the same Time a Declaration publish'd that no Vessell shall be suffered to clear for Boston or Hallifax.

All the military Force we have in this Province is the King Fisher sloop of War, and 100 Men of the royal Irish Reg^t commanded by Major Hamilton. This

small Body of Troops are quartered in the city Barracks without any kind of Protection but in their Arms. Lord Dunmore when in this Government, converted the Fort Barracks into Stables, and dismantled the Fort itself, which before that Time was a sufficient security against the attempts of a Mob. The Troops now found the want of this security, and that they were not only a Force too small to make any formidable Opposition to the violences of the People, but, in their Situation appeared insufficient to deter the rash Designs which were meditated to Destroy them, and which there is reason to think would have been attempted if some of the Inhabitants had not supported Moderation & Wisdom enough to prevent the spilling of Blood.

The Posts between this Place and Boston are stop'd, as all Letters were open'd on the Way, and many secreted since the affair of the 19th of April. I hope Gen^l Gage will employ a Cutter to go between Us, as a communication of Intelligence may be very necessary.

Governor Carleton informs Me that he has received the Box with his Commission and Instructions which I received from your Lordship's office, with your Orders to forward it to him.

I enclose a printed copy of the Association. I am &c

TO GOVERNOR CARLETON.

New York, 3^d May 1775.

SIR,

The inclosed Dispatches from Gen^l Gage are in consequence of an application I made to him for Assistance to quell an Insurrection which took place in March last in Cumberland County in this Province. The State of affairs Here has undergone so great a change since the action at Boston that the Plan which I had laid is entirely defeated. I have received some Arms and Ammunition from the General, which I desired for the use

of the well affected Inhabitants of that County; but as they arrived after the News from Boston had excited the utmost Disorder and Rage Here, it was necessary to lodge both arms and ammunition on Board a Sloop of War, to prevent their being seized by the People. In our present state I cannot venture to send them to Albany or anywhere else, or to move them out of that Place of Security. Without these Arms the People of Cumberland cannot join the Troops order'd from Quebec. The General desires me Sir to signify my Intentions to you, upon the proposed junction. I am sorry to say I do not now see a possibility of executing the Plan. I am extreemly hurried in Business and writing by the Packett. We have not heard a Word from Boston since the date of your Dispatches. All communication by Post is stop'd. Sir John Johnson, now here, takes charge of your Dispatches and will send them by an Ind^a I am &c

TO LORD DARTMOUTH.

[No. 16 a.]

New York, 4th May 1775.

MY LORD,

The State of annarchy and Confusion into which this Province has run since the actual Commencement of Hostilities, between the Kings Troops and People of Massachusetts Bay, induces several Gentlemen to go over to England, with hopes of being able to do something to stop the effusion of Blood, and the Horrors and Calamities of a Civil War which has already had such terrifying Effects. Among these is Lt. Col. Maunsell, an half pay officer in his Majesty's Service who with great zeal offer'd to carry my Dispatches to your Lordship. I have not had more than a very superficial Acquaintance with Col. Maunsell, but on this Occasion I have been told by Gentlemen who know him well, that he is a Man of strict Honor & Probity

—a warm Friend to Government, and by a Residence of eleven years in this Place, is well acquainted with the General state of the Province. He will be able to give your Lordship a minute Detail of Circumstances which you may wish to know. I do not however my Lord deliver up public Dispatches to him as it is possible he may be detain'd by sickness or some accident. If he should arrive in London before the Mail, your Lordship may confide in his account of our present State, which is a total prostration of Government, & an association with the other Colonies to resist the Acts of Parliament and oppose Force to Force. I am &c

TO LORD NORTH.

New York, 4th May 1775.

MY LORD,

L^t Coll Maunsell was the person who, on the sudden change that has happened in this Province, took the Resolution of going to England, and engaged a Letter of Introduction to your Lordship. He is an Officer on half pay, served in the last war in America, and has acquired a knowledge of the state of this Colony by a Residence of 11 years. He has been a Eye Witness of the late Extraordinary Events in this Place. So many gentlemen have since taken the Resolution to go over in this Pacquet, that your Lordship may have the best Information from a variety of Hands. M^r. Watts and Col Morris, both of the Council, have within a few hours of the Pacquet's sailing taken their Resolution to go. I have given a full account of the present state of the Province to Lord Dartmouth. I beg your Lordship to be assured of the firm attachment and Respect with which I am, &c.

TO LORD DARTMOUTH.

[No. 16 b.]

New York, 4th May, 1775.

MY LORD,

Mr. Wilkins a member of the Assembly of this Province distinguished himself in the last Sessions by the zeal and ability with which he opposed Congresses and Committees, and all their Plans of Violent Resistance. On this account he is now marked as an object on whom the certain Resentment of the People ought to fall—Their rage at present runs so high that his situation is really dangerous and he was very soon obliged to seek security by flying from his House and Family. I was inform'd last Evening that he had determin'd to go to England with the Packett which is to sail this Day. Your Lordship may be able to get much Intelligence from him. He is perfectly well acquainted with the political schemes of different parties, and the general state of the Province. I think it is my duty to introduce him to your Lordship as a Gentleman of an excellent character, good understanding, friendly to Mankind and zealously attach'd to Government. I am, &c

 TO GENERAL GAGE.
New York 4th May 1775.

SIR,

I am desired to transmit the inclosed Minute of Council to your Excellency which in the present state of this Government I could not refuse. From it you will see the State We are in. A Committee has assumed the whole Powers of Government I shall not presume to give advice. Your own Judgment must determine what attention is it Prudent & Proper to pay to the request of the Council.

I have received a letter of the 21st of April from B.

G. Robertson, with your Dispatches for Governor Carleton. The Disposition of the People is now such that I cannot venture to move the arms & ammunition you have afforded for the use of Cumberland County out of Captⁿ Montagu's Protection who has them on Board his ship.

I have wrote to Governor Carleton that my Plan of joining a Provincial Force to the Regulars which in that case you have ordered from Quebec is now entirely defeated. I however thought it might be necessary to forward your Dispatches to him, and as a conveyance by Post is not now to be depended on, I have sent them by a safe Hand to Col Johnson with directions to him to forward them by a trusty Indian to Montreal. I am, &c.

TO GENERAL GAGE.

New York, 2nd April 1775.

SIR,

I see by the Accounts which are published in the Boston News Papers of the late daring Riot in Cumberland County of this Province that your Excellency has been as well informed of that dangerous and insolent affair as we are in this Place. Upon the first Intelligence of it I applied to our assembly and press'd them to grant such Supplies as would enable Me to reinstate the authority of Government in that County, & bring to Punishment the atrocious offenders. I am sorry to say with much difficulty the House were brought to give £1000 for this Purpose. Col. Schuyler and his Party opposed the Granting any Aid whatever, and by working on the parsimonious Disposition of some of the Country Members, had nearly carried his point. The avowed Design of the Rioters was to shut up the Courts of Justice, in imitation of their Neighbours of Massachusetts Bay, and to follow the same example in all other Matters yet M^r. Schuyler and his Party have

industriously propagated an Opinion both in the House & abroad that the violent Proceedings in Cumberland County are solely owing to the uneasiness and distress the People are under from the Disputes subsisting about the Title of their Lands. Your Excellency may be assured this is an assertion without foundation propagated by those only who wish to see this Government in the same state of Disorder and confusion that prevails elsewhere. I dare say there is not a County in this Province where there are fewer, or so few disputed Titles as in Cumberland. No one Grant made by this Government in that County clashes with the New Hampshire Claims, except the Township of Hindsdale, the Inhabitants of which Town I am assured are perfectly quiet and in peaceable Possession of their Lands. I think it necessary to say thus much to your Excellency that you may be informed of the true state of Facts.

I am now Sir to set to work with the small aid granted by the Assembly to reinstate the Courts of Justice in Cumberland County, and to bring the offenders to Punishment. I am certain I may rely on every assistance your Excellency can give us consistent with other Parts of his Majesty's Service. Our Plan is to raise such a Force in the County as shall be sufficient to suppress any further Riots, and then to send the Judges of the Supreme Court to hold a Court of Oyer and Terminer in the County. Col Wells one of the Members of Assembly for that County who seems to be a discreet, resolute Man, says he does not doubt but that he can raise four or five hundred Men in the County who may be depended on to be well affected to Government. I propose to give Commissions to officers for 300 Men who are to be inlisted as soon as possible, with the greatest attention to take only such Men as may be trusted. Whenever Exigencies will admit of it, only one Company of 50 Men will be Kept in constant Duty and Pay; the others are to be ready at a call, and paid when on Duty. A sufficient supply of Provisions

is to be had on the spot but arms and ammunition—especially arms, We cannot get unless from your Excellency. I must therefore, Sir, if you think it is consistent with his Majesty's Service, request you will furnish Me with 300 stand of arms, Bayonets, Flints and Cartouch Boxes and such quantity of Cartridges as you think proper, to be sent to this Place as soon as possible. There will be some difficulty in getting the arms from Hence to Cumberland. We at present propose that they shall be lodged in the safest Manner We can at Albany. That the Men when inlisted shall be sent as privately as possible, from Cumberland to rendezvous with their officers at Albany on a certain Day, That they shall receive their arms & ammunition and march in a Body to Cumberland. If your Excellency can think of any Better Method of getting the Arms & Ammunition up to that County, or of any more eligible Plan for applying the Money We have got to restore the authority of Government in the County, I beg your advice upon it.

By the last accounts We have one of the Judges the Sheriff and Clarke with six other Persons of Cumberland County were carried by the rioters to North Hampton in your Government, and are now in Goal there, but it is imagined will soon be set at Liberty, and We expect that some of them will then make the best of their Way to this Place.

Col. Wells will stay here till I receive an answer from you, which I beg may be as soon as Possible.

I propose that our Assembly should adjourn Tomorrow for about a Month. Their Petition to the King is loyal, affectionate and Decent strongly expressive of subordination to the authority of Great Britain and of a hearty disposition to a Reconciliation.

They state their Grievances with Moderation, & without a harsh Expression. Their Memorial & Remonstrance to the Lords & Commons are drawn in the Same Temper. I am

To GEN^L GAGE.New York 13th April 1775.

SIR,

The Intelligence received from Cumberland County, since I wrote to your Excellency on the 2^d Instant gives Us reason to think that the Disorders which so lately broke out there have already arrived at such a Highth that it will not be possible to reinstate any legal Authority in the County without assistance from the Military Power. Several Messengers, who were sent from Hence to Cumberland have returned & report that they should certainly be put to death if they persisted in attempting to go into that county. That all Travellers going that way are examined in Connecticut and Massachusetts Bay and not suffered to go on. Col. Wells and M^r Brush find they must not attempt to return Home, and are warn'd by their Families that they will be put to Death if they come into the County. No doubt the part which those Gentlemen took in conjunction with the majority of our Assembly has rendered them very obnoxious to the rebellious and distracted Party, and that they will be marked as fit Persons to be made examples of. I inclose your Excellency the copy of a Memorial which I have received from Col Wells and M^r Brush—they now give up all hopes of being able to do any Thing with the People of the County themselves; and that their only reliance is on the assistance your Excellency may be able to afford them. It is not in my Power to give them any Military Aid, whatever, and without it, the Friends of Government in that County must be ruined, and the authority of the civil Power entirely lost.

I must therefore rely on you Sir to take the state of Cumberland County where a Measure the most dangerous to Government and to the safety of the People has been first attempted and effected in this Province, into your Consideration. If any Troops can be spared from

Quebec, I think it would be for his Majesty's Service, should your Excellency think fit to order a considerable Body of them to march from Crown Point and Fort Edward by different Routs thro' Charlotte County into Cumberland. That they be directed to search for and apprehend particular Persons whom I shall be enabled to Name, who have been the Ringleaders in the late Outrages; and that they rendezvous in Cumberland to act in Conjunction with Col. Wells and other well affected People who will join them in executing such a Plan as may be form'd for reinstating the authority of Government in that County & Punishing the Offenders. I am of Opinion a Body of Troops so near the Borders of Massachusetts Bay may be very effectually Employed in executing the coercive Measures which seem unavoidable for bringing the eastern Colonies under submission to Great Britain or any legal authority. Such a Body in that interior Country will be a Protection the Friends of Government will gladly fly to—without it, they must run into the Torrent or perish in Opposition. B. G. Robertson has conversed with Col Wells and M^r. Brush and is so able to give you the best account, not only of this, but of all our political affairs that I beg leave to refer to him. I must however beg leave to inform your Excellency that, in my Opinion, the want of the usual military Force in this Place greatly discourages the Friends of Government who know that the Civil Magistrates are not able in our present situation to afford protection either to the Persons or Property, and hence the disaffected, whose view is to plunge this Province into every rebellious Measure adopted by the other Colonies on too many occasions reign triumphant to the disgrace of Government. I was in hopes that the Asia Man of War would have been here ere now—With a proper Military Power I think this Province would continue to set a good Example, but without that protection I fear even the best Friends of Government will not care to risque their personal safety and expose their Families to continual

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Terrors & alarms. You alone, Sir, can determine whether a Regiment can be spared from Quebec, or any other Place. I am certain that if his Majesty's service will admit of it, the presence of three or four hundred Troops as soon as possible in this Place will have very salutary Effects.

By the Pacquet which arrived the Night before last, I received a Dispatch from the Secrettary of State's office for your Excellency Gen^l Robertson's Express was gone before I opened my Letters in the Morning. He advised me rather to send your Letter by the sloop, which he will dispatch Tomorrow, than by the Post with this, as you have not chose that the Dispatches for you should go by Post. I hope the sloop may have a fair wind, and am sorry I miss'd the Opportunity by the Express. I am, &c

TO GEN^L GAGE.

Spring Hill, 18th May 1775.

SIR,

Last Week the Committee of New York delivered Me an Address of which I enclose your Excellency a Copy, and of my Answer: You will please to let Me know if you choose that any Answer should be given from you—Things have taken a strange turn in this Province. I am much shagreened, but the Torrent is yet too furious to be opposed with any Hopes of success.

We hear the Benington Rioters joined by some Connecticut People, have taken possession of Ticonderoga and Crown Point, and have sent the officers & Men Prisoners into Connecticut. The Intelligence is brought by Express to the Committee; but I have it only from Report. I am

TO CAPTⁿ VANDEPUT OF HIS MAJESTY'S SHIP ASIA.

Spring Hill 27th of May

SIR,

Your arrival at New York, with his Majesty's Ship under your Command gives Me particular Satisfaction. I only regret that the Admiral did not find it consistent with his Majesty's Service to send Me so necessary an Aid much sooner. You will be surprised Sir to find how entirely the legal authority of Governm^t is now superseded in this Place, where only a few Months agoe the Prospect of public affairs gave so much satisfaction to the Friends of Government.

When Congresses and Committees had taken the entire direction of the Government, it was extremely disagreeable to Me to remain a Spectator of the Proceedings and confusions in Town, which I had it not in my Power to prevent; I therefore retired to this Place on Long Island where I shall be very happy to see you whenever you can make it agreeable to yourself.

I entirely agree with G^t Gage that it will be most proper for the five Companies of the royal Irish Reg^t under Major Hamilton's Command to embark on board the Asia. I have advised the Major to consult with you upon this Proposition, and think it is necessary that the Embarkation should be conducted both with secrecy and caution to avoid the wicked Measures that may be stir'd up on the Occasion I am &c

TO MAJOR ISAAC HAMILTON, 18th REG^t.

Spring Hill 27th May 1775.

SIR,

The very disagreeable Situation the five Companies under your Command have been in for some Time past, has given Me a great deal of Concern. I am of Opin-

ion that it cannot in any way advance his Majesty's Service to keep the Troops in that Situation, and therefore have no doubt that the Measure proposed to you by Gen^l Gage is the most proper of any that can be pursued at this Time. The inclosed Letter to Capt^a Vandeput is on this subject. My advice to you is Sir that after consulting with him and fixing on the best Plan for embarking, you should get the five Companies on board the Asia as soon as possible. It will be necessary to keep this Intention entirely Secret, and to effect the Embarkation in such way as to give the People the least Notice you possibly can of it. I am, &c

TO GEN^l GAGE.

Spring Hill 31st May 1775

SIR,

I have the honor of your Excellency's Letter of the 4th Instant, and your other Dispatches by the Asia Those which came under my cover for the Governors to the Southward, I have delivered to M^r Foxcroft, who will take care of them in the best Manner.

Immediately upon the Receipt of your first account of the affair of the 19th of April, I sent it to Gaine to be publish'd in his Paper. He desired Leave, if ask'd, to say from whom he got it. I sent my son to tell him that He might, and if he chose might add that I received it from Head Quarters, which entirely satisfied him, and he promised to publish it on Monday. This was on Saturday Evening. On Sunday he returned the Copy and let Me know he could not insert it in his Paper. Hancock and Adams came to Town on Saturday, and were probably consulted by some of the Party here, and with them determined still to suppress every account but their own. A Method by which they had so successfully deluded the People.

I have it not in my Power to give your Excellency

any account of what has lately happened in the northern Part of this Province. All Intelligence to Government is intercepted, so that I can know nothing but the Common Reports, and what is published in the News Papers. The Congresses and Committees have taken the entire Direction of all public Transactions and are the only Hands who receive Intelligence. It is very natural for a Set of Rioters such as the Benington People who had long declared Defiance to legal authority to seize the first Moment of public Confusion, to achieve an action whereby they might be united as Principals in the grand Opposition to Government. I wish the Delegates from New York may have Prudence or Influence enough in the Congress to prevent this high Act of Treason from being supported in a Manner that will make it the Act of the Province. It is said the Benington People were join'd by a Party from Hartford, and another from the Camp near Boston, and it is now reported that a Party of those People from Ticonderoga have taken or destroy'd the Vessel at St. Johns.

I imagine this Event at Ticonderoga, may make it necessary for the 7th Reg^t to take Possession there again, and that they will not be able to spare such a number from thence as can be of any use at New York. Indeed the Spirit and Phrensey of the People is such that it may be questioned whether one Reg^t could now prudently venture thro' the Country. They would certainly be obliged to impress every Boat Waggon and Horse they employ'd, which would give continual Pretences for Broils and forcible Opposition. How much-soever I wish to have such a military Aid Here, as might reinstate the legal authority of Government, I cannot think it advisable to attempt the Introduction of any Troops now, unless the number was such as might deter any Opposition to them, or insure their being able to maintain their Ground.

Major Hamilton having communicated to me your Excellency's Letter to him, I had no doubt of the Propriety of advising him to put the five Companies

of the 18th Regt. under his Command on board the Asia. They have never made above 100 Men, and have ever since the affair at Boston been in a very critical situation.

After writing my opinion on this subject, I had the pleasure of a visit from Captⁿ Vandeput and Captⁿ Payne, and then found that there was such a Number of Women and Children belonging to the Troops, as would by no means be taken on Board the Asia; it was therefore agreed by Us that the Troops must remain in the Barracks. You will hear from Major Hamilton what Pains are taken to debauch his Men, and how successfully high Temptations are offered to Deserters.

I hear the spirit of arming and parading still continues to rage High in Town, & that several Independent Companies are form'd, who are cloathed in this form, & Exercise every Day. I have no room to expect that affairs are yet in a State among Us to take a Turn for the Better.

It is said to be resolved by the Continental and our provincial Congress that a very large Sum of Paper Money shall be issued. That the Port of New York shall be shut up when the others are. A fortification is to be raised at Kings bridge, and one on each side of Hudson's River. The Impositions which such Measures must produce, may make the People uneasy & dissatisfied, and they may then perhaps take up Resolution enough to return to legal Government.

June 1st I have a letter from Gov^r Tryon by the Packett which arrived last Evening. He intends to set out for his Gov^t in the May Packett. I am, &c

TO CAPTⁿ VANDEPUT.

Spring Hill, 1st June 1775.

SIR,

I am much obliged to you for your care of the Dispatches for Me from the Secretary of States office, which have been safely delivered by your officer. I shall have no Occasion to detain the Vessell you are dispatching to Boston; the Packett I now send for Gen^l Gage being all that I wish to forward.

I take the liberty to send you a Packett for my Grandson in New York. It contains several Letters from the Secretary of States office that requires particular care & I have directed him to deliver them. A reinforcement of 4 strong Regiments may indeed make a favourable change in the Face of affairs Here. They are not however mentioned in my dispatches. I am &c

TO MAJOR HAMILTON.

Spring Hill, 5th June 1775.

SIR,

The Difficulty about the Women and Children which occasioned an alteration of our first Determination to put the Troops under your Command on Board of the Asia, being obviated by removing the Women to Governor's Island, there is not any Thing to make Me object to your embarking as soon as you think proper. You likewise have my leave to Encamp the Women on the Governor's Island, and if there is any room in the House, which the Family who live there, do not make use of, I am willing the Women should have it. You will please to give Orders that they by no Means burn or destroy the Fences, or do any kind of Injury to any Thing on the Island.

Inclosed is an Order to the Barrack Master to lend

some Blankets and Utensils for the uses you mention. I have directed him to take particular Receipts for whatever is lent. I am, &c.

TO M^r GERRARD BANCKER, PROVINCIAL BARRACK
MASTER, NEW YORK.

Spring Hill, 5th June 1775.

SIR,

Major Hamilton intending soon to move the Troops out of the Barracks, has desired Me to lend them some Blanketts and Utensils, which appearing to Me to be necessary in their present Situation, you will please to let the Major have what Blankets and utensils he wants, takeing particular and proper Receipts for whatever you Lend. I am

TO THE R^t HON^{ble} LORDS COMMISSIONERS FOR TRADE
& PLANT^s.

New York, 7th June 1775.

MY LORDS,

By the Pacquett which sails at this Time from Hence, are transmitted in a Box directed to your Lordships, Exemplifications under the great Seal of this Province of 71 Acts of the Legislature pass'd in their last Sessions—Journal of the Proceedings of the Council in a Session commencing the 10th of January and ending the 3rd of April following—Minutes of Council in the Department of Lands &c from April 16, 1774 to the 11th of April 1775—Minutes of Council in the State Department from 7th April 1774 to 18th Ap. 1775, a printed sett of the Acts—a printed Sett of the Votes & Proceedings of the General Assembly.

Haveing submitted to Lord Dartmouth, any Remarks

I could make on the Acts of Assembly now transmitted in my Letter to his Lordship of the 4th of April, I have nothing to add to your Lordships but that the Effect which it was expected the Militia Act would have in preventing the appointment of a Militia by Voice of the People haveing fail'd, the act is at present of no manner of consequence. I am &c

TO LORD DARTMOUTH.

No. 17.

New York, 7th June, 1775.

MY LORD,

My Letter to your Lordship N^o 16 of the 3^d of May, and the Minute of Council then transmitted, contained a full Information of the unhappy Confusion and Disorder introduced into this Province in Consequence of what had happened at Boston on the 19th of April. After those Accounts and every particular Circumstance of our Situation which your Lordship would be informd of, by the gentlemen of the Council & others who went to England in the May Packett, you will not be surpris'd to hear that Congresses and Committees are now established in this Province, and are acting with all the Confidence and authority of a legal Government.

The Provincial Congress of this Province now setting consists of upwards of 100 Members. Except the remote Counties of Tryon, Gloucester & Cumberland and some Districts in Queens County on Long Island, every other Part of the Province have sent Deputies. The City Committee and Sub-Committees in the Country Places, are likewise kept up, and that the new Plan of Government may be Complete for carrying into Execution the Determinations of the Continental & Provincial Congresses those few Districts would have not yet appointed their sub-Committees, are now call'd upon by the provincial Congress to do it immediately.

The principal Matters said to be under Consideration in the Congresses, are, raising Money and an army to oppose the King's Forces, and erecting such Fortifications as may best command the Country and obstruct the March of an Army. The Congress are well aware that an attempt to raise Money by an immediate assessment upon the People would give a Disgust that might ruin all their schemes, and therefore propose to do it by issuing a Paper Money.

The Places proposed to be immediately fortified in this Province are Kingsbridge upon the little river which divides the Island of New York from the Continent, about 14 Miles from the City: and some Place on each side of Hudson's River which may be best situated for maintaining the Command of that River. It was mentioned in the Minute of Council transmitted with my last Letter to your Lordship that a number of Cannon were removed from the City into the Country. The Continental Congress approved of this Measure & recommended that all the Cannon & ammunition should be removed into the Country except those belonging to the King, which has accordingly been done. I am told they amount to above 100 Pieces of Ship Cannon belonging to the Merchants, tho' many of them are not fit for use. It is said there is but a small Quantity of ammunition in this Province it haveing been bought up by the New England People. Whatever there is is removed into the Country. The spirit of arming and military Parade still runs high in the City. Several Companies are form'd who have appointed their own officers are well armed and cloathed in uniform. The contagion has not yet spread much in the Country where the People would be very glad to remain quiet, but indefatigable Pains are taken to bring the whole Province into one Plan of Measures.

It must excite the most poignant sensations of Pain and anxiety my Lord, in every Breast where the Principles of Humanity and Common Sense are not obliterated by the Rage of political Enthusiasm to see a

People thus calmly Determine to involve a Country in dreadful War and Desolation, not even seeming to pay the least attention to a peaceable accommodation tho' benevolently held out to them by their gracious Sovereign and the Parliament. In this gloomy Prospect of Affairs the Friends of Government have received a glimpse of Hope upon hearing that Mr Duane, a Delegate from New York, has moved in the Continental Congress to introduce a Plan of Accommodation which produced a warm debate, but was carried in favour of the Motion. Any Measures my Lord are to be preferred to those of Hostility. A Negotiation once begun will give the People Time to cool and feel the Consequences of what they have already done before the whole Colonies become equally desperate.

I transmit your Lordship Copies of an Address made to Me by the Committee of New York on the 13th of last Month and of my Answer. It is evident the real Design of this Address tho' the Pretence is different, was to take an Opportunity of declaring their Sentiments upon the present unhappy Controversy A direct answer to this, tho' the most material Part of the Address, I was convinced would not be of any use at this Time of Delusion. I therefore, in opposition to their Assertion that all Applications from the Colonies for Redress have been rejected, introduced a short account of the benevolent Disposition of his Majesty & the House of Commons, as express'd in your Lordship's Letters, and the Resolution of that House. The recent Instance of Disorder alluded to in my answer was a most scandalous Outrage upon Dr. Cooper the President of our College He narrowly escaped being seized by a Mob who broke the College Gate open, and would certainly have committed the most violent abuse upon him, if he had not happily saved himself by flight. The Doct^r. is since gone from this Distracted Country to England, and will give your Lordship a farther particular Account of the Transactions Here. The Odium excited against him is for his warm attachment

to Government, & his being a supposed Author of almost every Piece that appeared on that side of the Question. I presume your Lordship is so well acquainted with his character & Merrit that I need not add any Thing to introduce him to your attention.

M^r Rivington, the Printer of one of our News Papers was attacked by the same Mob & rescued by the Resolution of one or two Friends. He has since taken refuge or Board the Man of War, and will not yet venture to return to his House. His crime is only the Liberty of his Press.

While these Transactions engross'd the Attention of the City, a Matter of great Importance was carried on in the northern Part of this Province No less than the actual takeing his Majesty's Forts at Ticonderoga and Crown Point, and makeing the Garrison Prisoners. I have not any Account my Lord of this affair but what I have collected from the current Reports, for all Intelligence to Government, is effectually cut off thro' the Country.

The only People of this Province who had any Hand in this Expedition were that sett of lawless People whom your Lordship has heard much of under the name of the Benington Mob. They were joined by a Party from Connecticut, & another from Massachusetts Bay. They surprised the Garrison & took the Forts without Opposition. The Prisoners were carried into Connecticut. These People advanced across the Lake as far as S^t. Johns, took a vessell there and destroy'd a number of Boats and some store Houses. This will retard the Operations which Gov^r Carleton will probably undertake on this Occasion. He alone has it in his Power to do any Thing in that Quarter, and I hope he may have an Opportunity of severely retaliating this wanton Act of Treason. Many People here are of Opinion, my Lord this has been a Plan concerted by our Neighbours of the East, in order to Embarass this Colony and impell us into a Situation like their own. It is evident that all the neighbouring Colonies saw

with outmost Jealousy the moderate Temper of the Majority of our People, and the Conduct of our Assembly. They determined to hold up such Terrors as should effectually prevent Us from accepting of the peculiar Indulgences and Favours intended by Parliament. We were look'd upon as Inimical to their Designs, and Plans were laid to Effect our Destruction or produce an explicit Union with Them which have been executed with great Success. I am told the People who took the Forts immediately dispatched a Messenger to the Continental Congress, but I have not learnt with any degree of certainty what Resolutions either they or the provincial Congress have taken upon it.

His Majesty's Ship Asia came into our Harbour about ten Days since. In my Letter of March 1st N^o 13, I informed your Lordship that I had suggested to Admiral Graves the propriety of sending one of the large ships to this Place. He answered that I might expect the Asia here by the 1st of April. I am heartily sorry she was not, for I really think the Countenance of that Ship would have had a good Effect by encouraging some and Discouraging others. The Friends of Government saw no Security for their Persons or Property but by joining with the Multitude. I have considered my Lord with great Attention the sudden change of Measures and to all appearance of Sentiments which has happen'd in this Place, and upon the best Judgment I am able to form, it is my Opinion that if the same Number of Regular Troops had been here, which we have had at all Times since the Peace till now, this change of Measures and Prostration of legal authority had not happened. And upon the Information I have received I will venture to say that whenever a sufficient Protection appears, it will be found that his Majesty has many true and loyal subjects who are at present compelled to acquiesce in the Plans of Opposition. I have reason to believe that numbers now appear in Arms in this City, who have not the least Intention to oppose Government, but will join to

support legal authority when there is an Opportunity. I know of one Company in particular, who have associated to support Gov^t but for the present appear and Parade as others do.

The Association mentioned in the Minute of Council to which I have already refer'd, was sign'd by many Hands during the first Impulse of Confusion and Dispare; but that having subsided the spirit of signing has very much abated. I am told only 1800 have signed in the City of New York: there must be at least three Times that number who have an equal Right to Sign. The Congress have lately directed a fresh application to be made to every Man throughout the Province who has not signed, and the Names of those who do not sign to be returned to them by the 15th of July.

As it is not possible for me my Lord, in our Present Situation, to obtain regular Intelligence, I am obliged to mention such Reports of Matters of Consequence as I have any Reason to believe are true: of this kind is a Report that a Body of two or three thousand Connecticut Men are encamping at Greenwich, a Place in that Government about 40 Miles Distant from the city of New York. The declared Purpose of this army is to keep this Government in awe, and prevent any defection Here, from the general Plan of Measures, and to assist, if necessary, in opposing the Measures of Government.

In my Letter to your Lordship N^o 16, I mention'd the very disagreeable and critical Situation of the few Troops who were quartered in the Barracks of this Place, and that only by the Interposition of the more prudent Inhabitants they were suffered to remain in Peace.

No pains however was spared to Debauch the Men, and seduce them to Desert. Large Rewards and certain Protection they were assured of which had such Effect that the Officers began to apprehend they were in danger of looseing the whole. In this situation Gen^l Gage wrote to Major Hamilton by the Asia that he

thought it would be a proper Measure to put the Troops under his command on Board of that Ship, and desired him to consult with me upon it. As I was very sensible this small number of Troops could not be of any use in the Barracks, and were exposed to those very disagreeable Circumstances I have already mention'd, I did not doubt of the Propriety of the Measures proposed by Gen' Gage. A difficulty arose on account of the Women & Children who were too numerous to be taken on Board with the Men, almost the whole that belong to the Rgt. being in the Barracks Here with the Detachment. This occasion'd a delay of eight or ten days, in which Time several Soldiers Deserted. We at length thought of encamping the Women & Children on what is call'd the Governor's Island, till they could be otherwise taken care of, and yesterday was fixed on for embarking the Troops on Board the Asia. The Provincial Congress had notice that some People proposed to stop the embarkation, upon which they publish'd a Hand Bill advising the People not to Mollest the Troops or interrupt them in their Design. They likewise appointed a number of their Members to join the City Magistrates and assist them in preventing any interruption to the Troops. As soon as the Troops march'd from the Barracks, several People began to Harrangue them exhorting them to desert, and assuring them of sufficient protection. Two or three fellows had the hardiness to turn off with their Arms from the Ranks, and were immediately carryed away by the People. When the Troops got upon the Dock where they were to embark the Capt' following in the Rear with their Baggage were stop'd, and in the face of the Mayor Aldermen Congress and Committee Men, turn'd about by a few Desperate Fellows, carried to a Place at some Distance, where they open'd the Baggage and took out a number of Spare arms and all the Ammunition belonging to the Detachment. The Troops embarked without their Baggage. This violent Outrage has much allarm'd the Inhabitants and many of the Congress and Committee

Men themselves who did not expect their authority would meet with such a public Contempt, as demonstrated how inadequate they were to the Government & Protection of the People. The Events of Yesterday made it sufficiently apparent that a People encouraged to trample on Magistrates and legal authority, will not be govern'd by any Thing but their own wild and dangerous Passions.

I have received the Dispatches from your Lordships office by the April Mail, and the secret Dispatch, by Col. Maclean with whom I have not yet had any Conversation. He, immediately after he arrived Here, embark'd again for Boston in a Vessell which waited Here for the Generals Dispatches. I hope the Plan he is on may succeed. I am, &c

TO MAJOR HAMILTON, 18TH. REG^T.

Spring Hill 9th June 1775

SIR,

Few Things could add more to the shagreen and Uneasiness I feel from the most unhappy state of the City of N. York than the high Insult and Outrage offered to his Majesty's Troops on their March thro' the City last Tuesday. It Demonstrates what I was very certain of before, that the legal authority of the Laws and officers of Government, being prostrated and trampled on, no assumed Power of Congresses or Committees will be sufficient to restrain the People. There is a Party in the City, who are determined that this Province shall not fall short of the most violent in their Measures of Opposition to the King & Parliament. I am sorry to find these wicked Men daily get the Better of Magistrates & Congresses & Committees, and do whatever their extravagant Passions lead to. I have wrote to the Mayor, but have too much reason to fear that neither his authority, nor mine, will avail at this

Time. I received a particular account of what you met with on Tuesday, in Time to write fully on it to Lord Dartmouth. I am, &c

TO WHITEHEAD HICKS, ESQ, MAYOR OF THE CITY OF
NEW YORK.

Spring Hill 9th June 1775.

SIR,

I have just now received a Letter from Major Hamilton complaining of the high Insult and Outrage offered to his Majesty's Troops by a number of People in the City of New York, on their March last Tuesday from the Barracks to the Dock where they were to embark. That their baggage was violently taken from them, the Trunks and Packages in violation of all Faith broke open, their contents examined, and upwards of 100 stand of arms and accoutrements, besides several Fusils belonging to absent officers taken out, which are still detain'd, tho' the private Property of the Officers has been restored. Major Hamilton very justly observes that had they been equally prone to acts of violence, they had sufficient Provocation to justify them in such as might have been fatal to many. But upon the assurances they received from the Magestrates that the Baggage should be restored they with great Humanity and Prudence, chose to trust to those assurances rather than add to the Confusion of the City.

It is a lamentable Reflection Sir, that neither your Presence with other Magestrates, nor that of those who have so lately given Me a public Assurance that they would strengthen the Hand of the Civil Magistrate, did prevent this violent Outrage on his Majesty's Troops who have behaved in the most peaceable and orderly Manner ever since they came to the City. I will not suffer myself to doubt of your haveing done what was in your Power; but it is my Duty to endea-

your to add any Influence I may possibly have, and to call upon you to persevere in every Method you can devise to recover and restore the arms, &c. which have been so insolently taken from the King's Service. Every Degree of Confidence must be lost, and the Citizens of New York branded with a scandalous Breach of Faith, unless this be immediately done. I am &c.



THE
C O N D U C T
OF
CADWALLADER COLDEN, ESQUIRE,
LATE
LIEUTENANT-GOVERNOR
OF
N E W Y O R K .



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THE
C O N D U C T

OF

CADWALLADER COLDEN, ESQUIRE,

LATE

LIEUTENANT-GOVERNOR

OF

N E W Y O R K :

RELATING TO

THE JUDGES COMMISSIONS, APPEALS TO
THE KING, AND THE STAMP-DUTY.

PRINTED IN THE YEAR M DCC LXVII.

THE
CONDUCT
OF

CADWALLADER COLDEN, ESQUIRE.

The People of Great Britain are deeply concerned in the Behaviour of the Governors of their Colonies : to Reward them when they do well, and to Punish when they do otherwise.

WHILE an angry Faction in the Province of *New York* confined their Calumnies of Lieutenant Governor *Colden* to a common News-Paper, he did not think that they deserved his Notice. The Malice in those Papers is so apparent, they can have no Influence on any Man disinterested in the Dispute. He satisfied himself with laying the [2] Reasons of his Conduct before his Majesty's Ministers, who are the proper Judges of it. But that Faction having influenced the General Assembly to pass a public Censure on Mr. *Colden's* Conduct, after he had been succeeded in the Administration by Sir *Henry Moore*, he thinks himself loudly called upon, by every Motive which can influence an honest, innocent Man, to vindicate his Character.

Lieutenant-Governor *Colden's* Conduct has been found Fault with in three Instances, and in those only.

First, His refusing to grant the Judges Commissions *during good Behaviour*. Secondly, His supporting a Right to Appeal from the Courts of Common Law, in

civil Causes, to the Governor and Council, and from thence to the King in his Privy Council, pursuant to the King's Instructions to his Governor of *New York* for that Purpose. Thirdly, In the Deference which he had to an Act of Parliament for laying a Stamp-Duty in the Colonies.

[3] 1. At the same time the Government of the Province of *New York* devolved on Mr. *Colden*, by the Death of Lieutenant-Governor *De Lancey*, the Office of Chief Justice, which Mr. *De Lancey* likewise held, became vacant. The Appointment of a new Chief Justice was consequently one of the first Things Mr. *Colden* had to think of. The Tenure of Mr. *De Lancey's* Commission was *during good Behaviour*; and the then puisne Judges held their Commissions on the same Tenure. The granting the Judges Commissions in that Manner, was a direct Breach of the Kings standing Instructions to his Governor, and contrary to the continued Practice in *New York*, the present Instances only excepted. It was expected that Mr. *Colden* should follow the last Example, and without Regard to his Instructions, should appoint a Chief Justice *during good Behaviour*: but he was immoveably determined to obey the King's Instructions. The puisne Judges had held the Courts without a Chief Justice, while Mr. *De Lancey* executed the Office of Governor; no Inconveniency had been complained of, nor could any now arise, by delaying to appoint a Chief Justice, [4] while Mr. *Colden* submitted the Matter to his Majesty's Ministers, and waited their Directions. Two of the puisne Judges, under different Pretences, solicited for the Office of Chief Justice. Mr. *Colden* did not know one Man of Distinction in the Place, who thought either of them qualified for the Office. They continued, however, to solicit him strongly for an Appointment; and the Assembly, in their first Sessions after the Administration had devolved on Mr. *Colden*, prepared an Address to him to appoint a Chief Justice *during good Behaviour*. He prevailed upon them to drop the Address, by assuring

them that he would lay the Matter before his Majesty's Ministers: which he not only did, but with great Freedom informed them, that the People were uneasy, from an Apprehension that some needy Person in *England* might be appointed Chief Justice of the Province;—that this was much owing to a late Appointment in *New Jersey*, which had given the People in general strong Prejudices. At the same time he suggested to the Ministry, that he hoped the Assembly would be satisfied with the Appointment of a Chief Justice *during the King's Pleasure*, on [5] Condition that he was enabled to give his Assent to a Law, that no Judge shall be removed or suspended by a Governor, otherwise than by express Command from the King; or by Desire of the Assembly, signified by public Address; or by Advice and Consent of the Council, signified under the Hands of at least Seven of them. This he had mentioned to the Speaker of the Assembly; and is a strong Instance, that while Mr. *Colden* honestly obeyed his Instructions, and supported the Prerogative of the Crown he was not inattentive to the Security of the People, and the free Administration of Justice.

Very soon after this the Death of the late King was known at *New York*. The Judges thought it necessary to have their Commissions renewed, though they held them then *during good Behaviour*. Mr. *Colden* refused to renew their Commissions otherwise than *during Pleasure*, as he was directed by his Instructions. The Judges declined to take their Commissions on that Tenure, and threatened to shut up the Courts of Justice, by refusing to act, on which a total Failure [6] of Justice might have ensued, though by the King's Proclamation their Commissions were continued in Force until his Majesty's Pleasure should be known; and it was quite agreeable to Mr. *Colden* to let Matters rest as they were until his Majesty's Pleasure was known.

The Assembly, the first Time they met after the King's Death, brought a Bill into their House for making the Tenure of the Judges Commissions *during*

good Behaviour, with a Clause that they might be removed by the Governor, on Address from the Assembly; or by Advice of at least Seven of the Council. Mr. *Colden* thought it necessary that they might be removed on the King's Pleasure, signified under his Signet and Sign Manual; and prevailed on the Assembly to postpone the Bill for that Time, while his Majesty's Requisitions for prosecuting the War demanded all their Attention. However, upon this Occasion Mr. *Colden* told some of the Gentlemen of the Council, and Members of Assembly, that if they would make proper Provision for the Judges Salaries to have the same Con[7]tinuance with their Commissions, it would be a great Inducement with him to give his Assent, and might excuse him with his Majesty's Ministers for so doing. He immediately informed the Ministry of the Purport of the Bill that had been brought in by the Assembly; and argued in Favour of the Bill, that, with the Additions he proposed, the Prerogative of the Crown would be preserved, and the arbitrary Proceedings of Governors guarded against.

His Majesty's Service requiring the Assembly to meet again about two Months after, they then passed a Bill, *providing that the Judges of the Supreme Court shall have their Commissions during good Behaviour*; which the Council agreed to—No Provision was made in it for giving the Judges Salaries the same Continuance with their Commissions. They were left depending on the Assembly from Year to Year. Mr. *Colden* took Time to consider of it, and transmitted a Copy of the Bill to his Majesty's Ministers—A few Months after Mr. *Colden* renewed his Application to the Ministry on this Subject, and pressed to know his Majestys. [8] Pleasure, as he expected the Bill would be insisted on by the Assembly; and as he had been informed that the Judges designed not to sit the ensuing Term, unless their Commissions were renewed *during good Behaviour*, which would lay him under great Difficulties, and might perhaps induce a Necessity of giving his Assent

to the Bill; to prevent a total Failure of Justice; On which the Plantation Board, in their Representation to the King, say, "They could not but be of Opinion, that if under these Circumstances Mr. *Colden* should have complied with so pernicious a Proposition, he will justly have deserved his Majesty's royal Displeasure."

In *September* the Assembly had a short Sessions, upon a Requisition made by General *Amburst*; and no other Business was laid before them, or expected of them at that time. General Monckton's Commission of Governor in Chief was then hourly expected. Yet the Council and Assembly again passed the same Bill relating to the Judges Commissions. The Lieutenant Governor again delayed his Assent; informing the Council, that as he had laid the Bill before his Ma[9]jesty's Ministers, he must wait at least a reasonable Time for their Directions.

Thus the Affair stood when General *Monckton* received his Commission of Governor in Chief, about a Fortnight before he set out upon his Expedition against *Martinico*. He took the Administration of Government upon him during this short time, and in Council told Lieutenant Governor *Colden*, that the Judges ought to have their Commissions renewed in the manner they formerly had them. If General *Monckton* thought this right, he had it then in his own Power, but he did not do it.

Mr. *Prat* arrived at this Juncture, with his Majesty's Mandamus to be appointed Chief Justice of *New York*, during the King's Pleasure, and his Commission was made out accordingly. Mr. *Prat's* Qualifying and Entering upon his Office happily relieved the Lieutenant Governor, when he reassumed the Administration upon Mr. *Monckton's* Departure, from the great Difficulties he must have been under, by the other [10] Judges refusing to act upon their old Commissions, or to accept of a new Appointment, unless during good Behaviour. For though they really refused to sit, in the Term which commenced immediately after Mr. *Prat's* Arri-

val, the Courts of Justice received not the least Prejudice or Obstruction thereby—Mr. Chief Justice *Prat* was a Man of distinguished Abilities, Knowledge and Integrity.

Notwithstanding the Assembly knew the Tenure of Mr. *Prat's* Commission was, by direct Command of the King, *during his Majesty's Pleasure*, they in their next Session absolutely refused to grant any Salary to the Chief Justice, or to any other of the Judges, unless their Commissions were *during good Behaviour*. At this time likewise the Assembly sent up the same Bill to the Council, to which the Lieutenant Governor had twice before withheld his Assent. The Council had formerly passed the Bill—they had now a Conference with the Assembly, to get them to add a Clause to make the Judges Salaries of the same Continuance with their Commissions, but without Effect; whereupon [11] the Council refused their Concurrence to the Bill.—The Assembly were as much resolved that the Judges should be *dependant* on them, as that they should be *independant* of the Crown. The Lieutenant Governor had not now the disagreeable Task of refusing his Assent to a Bill passed by the other Branches of the Legislature: But he gave a full Account of all that had happened, to his Majesty's Ministers; and observed, that the Obstinacy with which the Assembly persisted to contend that the Judges Commissions should be *during good Behaviour*, and to refuse to make their Salaries of the same Continuance, might justly create Suspensions of a designed undue Influence, as much to be dreaded by the People, as prejudicial to the Prerogative of the Crown. The Lords of Trade and Plantations, in a Representation to the King on this Subject, observe, that “the People in *New York* were strenuous to have the Judges Commissions *during good Behaviour*, alledging the Precedent and Example of the Mother Country. It was not, however, say their Lordships, by the Tenure of their Commissions only that the Judges were rendered independent, but such Salaries [12] were settled upon them, as

not only rendered them less liable to be corrupted, but was an Encouragement for the ablest Men to engage in that Profession which qualified them for such high Trusts."

The *February* following, the Lieutenant-Governor received his Majesty's additional Instruction to his Governor of *New York*, commanding him that he "do not, on any Pretence whatsoever, upon Pain of being removed from his Government, give his Assent to any Act, by which the Tenure of the Judges Commissions shall be regulated or ascertained in any Manner; and that all Commissions to the Judges shall be during Pleasure only."

This Instruction put an End to the Dispute; the Judges are appointed during Pleasure, and the Assembly gives them Salaries from Year to Year.

The Obedience due to the King's Command is certainly of itself a sufficient Justification of Lieutenant-Governor *Colden's* Conduct on this Occasion: But besides this, he [13] was influenced by a Consideration of the due Administration of Justice to the People under his Care. Perhaps no Man could be found in the Province of sufficient Abilities and Knowledge in the Law, and free from Family and Party Connections, or from being interested in similar Cases, so far as to be esteemed truly disinterested in any Cause of Consequence, relating to Lands which might come before him. For some Years past, not more than one Judge has sat on any Land Trial of Consequence, the others being disabled from sitting by their being interested. It is said there is a Cause now depending, on which none of the Judges can sit, all being interested. By granting Commissions to Men not duly qualified *during good Behaviour*, the King is disabled, during their Lives, to appoint others, and Justice must continue to be executed in the Province under very great Disadvantages.

The Power of an ambitious Chief Justice *during good Behaviour*, appeared to the Lieutenant-Governor to be very dangerous to the Authority of the Crown,

and to the Property and Safety of the People. In this Pro-[14]vince, where there are few Men of liberal Education, or who with any Attention apply their Thoughts to Matters of public Concern, an ambitious Judge has great Temptations to form Combinations with the Gentlemen of the Bar. This, with a Family Interest and its Connections, may prove too strong for the weak Power of the Administration in *New York*. The Gentlemen of the Law are in the Secrets of the most considerable Families, by which they obtain a general Influence. Every Man is afraid of the ruinous Expence of a tedious Law Suit. However careful a Man may be in his Conduct, he cannot think himself secure from Law Suits, while he may have an avaricious and malicious Neighbour. The Law, which ought to be the Safeguard of the People, is become a Terror to honest Men; and this could not be, were the Judges no way to blame.

The Lords of the Plantation Board, in a Representation to the King on this Subject, observe, that "for want of such an Establishment as might induce able Persons to offer their Service, a Governor may be obliged [15] to confer the Office of Judge upon those who accept it merely with a View to make it subservient to their private Interests, and who, added to their Ignorance of the Law, may become the Partizans of a factious Assembly, upon whom they are dependent for their Support, and who may withhold or enlarge that Support, as the Conduct of the Judge is more or less favourable to their Interests.

"It is difficult (say their Lordships) to conceive a "State of Government more dangerous to the Rights "and Liberties of the Subject; but aggravated as the "Evil would be, by making the Judges Commissions "during good Behaviour, without rendering them at "the same time independent of the factious Will and "Caprice of an Assembly, we cannot but consider the "Proposition as subversive of all true Policy, destructive "to the Interests of your Majesty's Subjects, and tend-

“ing to lessen that just Dependence, which the Colonies
“ought to have upon the Government of the Mother
“Country.”

[16] These Arguments militate with great Force against appointing the Judges during good Behaviour, and every disinterested Man in the Province must allow they have much Weight. The Arguments likewise against the Judges holding their Offices at the Pleasure of a Governor, are not inconsiderable. Mr. *Colden* saw their full Force, and while the Assembly were guarding against this, he hoped to bring about a Measure, which might at the same time guard against the arbitrary Proceedings and undue Influence of an Assembly, and render the Judges as independent as could be desired by honest Men. But the Assembly continued obstinately determined to keep the Judges dependent on them, while they contended to have them independent of the King.

A circumstantial Account has been given of Lieutenant-Governor *Colden's* Conduct, in this Affair of the Judges Commissions; for from the Disappointment which some powerful Men in the Province met with in this Instance, arose a Resentment which has not subsided since that Time.

[17] His Majesty's additional Instruction having silenced the Contest about the Judges Commissions, the Lieutenant-Governor's Administration continued from that Time without any apparent Dissatisfaction, until an Incident, in *October* 1764, brought on that Part of his Conduct which has been principally blamed; and on which Occasion no Artifice has been omitted to raise most violent Prejudices, by the loudest Clamours and most virulent Calumnies; *viz.*

2dly, The Lieutenant-Governor's supporting a Right to appeal from the Courts of Common Law, in civil Causes, to the Governor and Council, and from thence to the King in his Privy Council, pursuant to the King's Instructions to his Governor of *New York* in the following Words :

32. "Our Will and Pleasure is, that you, or the
"Commander in Chief of our said Province for the
"Time being, do in all civil Causes, on Application
"being made to you, or the Commander in Chief for
"the Time being, for that Purpose, permit and allow
"Appeals from any of [18] the Courts of common Law
"in our said Province, unto you, or the Commander in
"Chief, and the Council of our said Province; and you
"are for that Purpose to issue a Writ, in the Manner
"which has been usually accustomed, returnable be-
"fore yourself and the Council of our said Province,
"who are to proceed to hear and determine such Ap-
"peal; wherein such of our said Council as shall be at
"that Time Judges of the Court from whence such
"Appeal shall be made to you our Captain-General, or
"to the Commander in Chief for the Time being, and
"to our said Council as aforesaid, shall not be admitted
"to vote upon the said Appeal; but they may, never-
"theless, be present at the Hearing thereof, to give
"the Reasons of the Judgment given by them in the
"Causes wherein such Appeal shall be made.

"Provided nevertheless, That in all such Appeals,
"the Sum or Value appealed for do exceed the Sum of
"Three hundred Pounds Sterling; and that Security
"be first duly given by the Appellant to answer such
"Charges as shall be awarded, in case [19] the first
"Sentence be affirmed; and if either Party shall not
"rest satisfied with the Judgment of you, or the Com-
"mander in Chief for the Time being, and Council as
"aforesaid, our Will and Pleasure is, that they may
"then appeal unto us in our Privy Council, provided
"the Sum or Value so appealed for unto us exceed Five
"hundred Pounds Sterling, and that such Appeal be
"made within Fourteen Days after Sentence, and good
"Security given by the Appellant, that he will effect-
"ually prosecute the same, and answer the Condemna-
"tion, and also pay such Costs and Damages as shall
"be awarded by us, in case the Sentence of you, or the
"Commander in Chief for the Time being, and Coun-

“cil, be affirmed. Provided nevertheless, where the
“Matter in Question relates to the taking or demand-
“ing any Duty payable to us, or to any Fee of Office,
“or annual Rent, or other such-like Matter or Thing,
“where the Rights in future may be bound, in all such
“Cases you are to admit an Appeal to us in our Privy
“Council, though the immediate Sum or Value ap-
“pealed for be of less [20] Value. And it is our
“further Will and Pleasure, that in all Cases where,
“by your Instructions, you are to admit Appeals
“to us in our Privy Council, Execution be suspended,
“until the final Determination of such Appeals, unless
“good and sufficient Security be given by the Appellee
“to make ample Restitution of all that the Appellant
“shall have lost by means of such Judgment or Decree,
“in case, upon the Determination of such Appeal, such
“Decree or Judgment should be reversed, and Restitu-
“tion awarded to the Appellant.”

33. “You are likewise to admit Appeals unto us in
“Council, in all Cases of Fines imposed for Misde-
“meanors, provided the Fines so imposed amount to or
“exceed Two hundred Pounds Sterling, the Appellant
“first giving good Security that he will effectually
“prosecute the same, and answer the Condemnation, if
“the Sentence by which such Fines were imposed shall
“be confirmed.”

On the Force of the 32d Instruction, an Appeal was brought in *October* 1764, from [21] a Verdict and Judgment in the Supreme Court of Common Law, to the Governor and Council, for excessive Damages given by the Jury in a Case of Assault and Battery.

It may deserve Notice, that the Defendant, before he brought his Appeal, conceiving that the Jury had been partial in giving excessive Damages, moved the Court to have a new Trial, but was refused. He had then no other Remedy but by Appeal. He was at the same time under Prosecution by Indictment for the same Offence, which subjected him to an exemplary Fine, at the Discretion of the Judges.

The Judges of the Supreme Court having refused the Appeal, and to allow any Entry to be made of it on their Minutes, the Lieutenant-Governor sealed a Writ, which the Defendant brought for removing the Cause before the Governor and Council, telling him that he took it at his Peril, and that it would be quashed if it was erroneous.

[22] Between the Time of issuing the Writ and the Return of it, several Incidents made it apparent that the Gentlemen of the Council were predetermined to reject the Appeal. The Lieutenant-Governor was therefore desirous that the Dispute should pass the Court of the Governor and Council in the easiest and shortest Manner possible, that the final Determination of it might be made by Persons much more capable of judging in such a Case, than the Governor and Council of *New York* can be supposed to be. But this did not suit the Purpose of those who opposed Appeals.—They placed their chief Hope in the popular Clamours to be excited on this Occasion, and it was not in the Lieutenant-Governor's Power to prevent it.

In this Case of the Judges refusing an Appeal from them, they were to inform the Governor and Council of their Reasons. The Lieutenant-Governor expected that this would have been done in private, and that they were at any time prepared to give their Reasons in clear and distinct Terms. They required Time, however, for this Purpose, and had time, and further Time repeatedly [23] granted them, to draw up their Reasons in Writing. At last they produced long Declarations, adapted more to the Passions of the Audience than the Information of the Court, each of the Judges separately making an Harrangue, and at several Sitzings of the Court.

After the Judges had finished what they had to say, the Lieutenant-Governor proposed to inquire into the true Intention of the Instruction, from the Words of the Instruction itself; but this seemed to be designedly evaded by the Gentlemen of the Council. At last,

that every Part of the Lieutenant-Governor's Conduct might appear open and fair, he communicated to the Council the Reasons which had induced him to think that the Instruction was really intended to establish a Court of Appeals upon the whole Merits of the Cause, and not a Court of Errors only to correct the Errors in the Proceedings of the Courts of Common Law. He had formed short Notes of what he intended to mention, which he held in his Hand to assist his Memory. The Gentlemen of the Council repeatedly desired a [24] Copy of this Paper for their Deliberation, to which the Lieutenant-Governor consented; expressly declaring, when he gave the Copy, that he did it in Confidence that no other Use would be made of it, but for their own private Deliberation. After the Delivery of this Paper, the Court, under several Pretences, was repeatedly adjourned, until a Paper was prepared by the Lawyers, in Opposition to Appeals, in Answer to every Argument in the Lieutenant-Governor's Notes; and concluded with a formal Judgment of the Court, by dismissing of the Appeal. This Paper the Gentlemen of the Council adopted as their own, and unanimously ordered it to be read.

The Lieutenant-Governor repeatedly complained of the Indecency and Disingenuity of this Proceeding: that such a Paper should be openly read, without previously communicating it to him; determining on Arguments which he had only proposed for their joint Deliberation with him:—making themselves Parties in Opposition to him;—and giving a Judgment of Court by themselves, without his Participation, when by [25] the Constitution of the Court it could not be held without him. Some of the Council became sensible of the Absurdity of their Proceedings, and desired to withdraw their Paper; after which, the Court was adjourned to the next Day. The Behaviour in all the Proceedings was so indecent, that several Persons present thought the Lieutenant-Governor too passive.—He had a difficult Part to act, when they,

who ought to have assisted him, laid Snares to surprize him.

At the next Meeting, the Lieutenant-Governor, without taking the least Notice of what had happened the Day before, proposed the following Question :

"Whether by the 32^d Instruction the King has directed his Governor to permit and allow Appeals, in all civil Causes, from the Courts of Common Law within this Province ; and whether the King, by the same Instruction, has directed his Governor and Council to hear and determine such Appeals ? "

[26] Whereupon the Council declared, "that as the King's Judges, and the most able Council in the Law in the Province, have given their Opinion, that no other than an Appeal in Error can lay by this Instruction, they are unanimously of opinion that no other than an Appeal in Error is the Intention or Meaning of the Crown by this Instruction, and that they cannot take Cognizance of any other Appeal."

It is evident the Gentlemen of the Council did not determine by any Judgment in themselves, but by their Faith in others.

The Lieutenant-Governor entered his Dissent to this Opinion, declaring he would transmit his Reasons to the King's Ministers. The Gentlemen of the Council desired the Paper, which had been read the Day before, might be entered as the Reasons of their Judgment, leaving out that Part in which they had passed Judgment ; which the Lieutenant-Governor did not oppose, that they might not have the least Room to complain, [27] though he thought the doing it in that Manner very improper and irregular.

It is proper to observe, that while this Dispute was depending before the Governor and Council, and before any Judgment was given, the Harangues of the Judges were printed in a common News-Paper, which could not be done without their Privity. For what Purpose this was done is too evident. It may have had an improper Influence on the Members of the Court.

Soon after the Determination, a weekly Paper, called *The Centinel*, was published, in which the most shameful Attempts were made to asperse the Lieutenant-Governor's Character, by such indirect Insinuations as the most innocent Man could not answer. The Depravity of the Author's Heart was so apparent, that his Scurility could hurt no Character with Men of Sense, whatever it might with the lowest of the People, for whom it only could be intended; it was therefore passed over without the least Notice taken of it.

[28] But as no Pains nor Industry has been omitted to prejudice the Lieutenant-Governor's Character, not only with the People of the Province of *New York*, but likewise in *Great Britain*, by transmitting the Papers published in *New York*, it is thought necessary that the Lieutenant-Governor's Reasons for supporting of Appeals be likewise published; from which it is hoped it will at least appear, that if he has erred in his Judgment, he has not otherwise than the most innocent Man may, after the most honest Endeavours to inform himself truly. He in no Shape or Manner concerned himself in the Dispute, after the Determination of the Council, otherwise than by transmitting the Proceedings of the Court to his Majesty's Ministers, and the Reasons of his Dissent from the Judgment of the Council.

It was allowed that the Words of the Instruction plainly import an Appeal on the whole Merits, especially on considering the subsequent Instruction; in which Case, the Verdict of the Jury becomes necessary to be inquired into, otherwise, as in the present Case of excessive Damages, the proper Re-[29]lief cannot be given: but it was insisted that no Relief by Appeal can be legally obtained against a Verdict, and that the only Relief in Error is against the erroneous Proceedings of the Court, or Determinations of the Judges. In Proof of which, the constant Practice of the Courts at *Westminster* was insisted on; and therefore the Instruction must receive such Construction as may make it consistent with Law: but no Construction of Words can make this In-

struction consistent with the Practice of the Courts at *Westminster*, in Error. It may well be doubted whether the Practice of the Courts at *Westminster* make a Law for the Colonies. If this were to be allowed, perhaps there is not one legal Court in any of the Colonies, and all the Proceedings in them are erroneous. The Supreme Court in *New York* has the Powers of the King's Bench, Common Pleas, and Exchequer, which, according to the Practice of the Courts at *Westminster*, would be absurd to exist in the same Court. The King is the Fountain of Justice, and it has been a received Opinion, that the King may erect such Courts of Justice in the Colonies, as he shall think requisite for the Distribution of [30] Justice; in which the Rules of Proceeding may, from their different Circumstances, be unavoidably different from the Practice of the Courts at *Westminster*, and at the same time consistent with the Laws of *England*. The Lieutenant-Governor thought it inconsistent with the Trust reposed in him, to acquiesce in having this Power of the Crown called in Question, and more particularly as to Appeals to the King; since in every Charter of Government, they are expressly reserved, and complied with in several of the Colonies, particularly in *Massachusetts Bay*.

At *Westminster* the Removal, in Cases of Error, is to Judges eminent for their Knowledge in the Law; but if the Governor and Council were to correct the Errors in the Proceedings and Determinations of the Judges, it would be a Removal from Persons skilled in the Law, to others who never made it their Study, and profess no Knowledge in it: and yet these may be good Judges, better than common Juries, of the Merits of a Cause.

[31] The Lieutenant-Governor is not a Lawyer, but under a Necessity of Judging in this Dispute; because the Court could not be held without him. He therefore thought it safest to form his Judgment on the general Principles of Justice, understood by Men of common Sense. In the present Complaint of excessive

Damages given by a Jury, no Redress can be had, however enormous the Damages, without reversing the Verdict. Every Man conversant in the Courts of Common Law in *New York*, will allow that numerous iniquitous Verdicts have been given in them. Every Evil ought to have a Remedy: and in natural Justice, an iniquitous Verdict ought to be reversed. It is said that in such Case the Judge will give a new Trial. He then, by his single Authority, sets aside a Verdict, and renders it null. What Law has given the Judge this Power? The Judges are allowed to assume a Power to set aside a Verdict at their Pleasure, and it is denied that the King can appoint a Court to inquire into the Justice of any Verdict. Appeals to the King are as old as the Constitution, when Juries, by the Common Law, were the sole Judges both of Law and Fact: [32] and it is said they are so at this Time; because they are not obliged to follow the Directions of the Judges. There is no Relief, it is affirmed, against an iniquitous Verdict, but this of the Judges giving a new Trial. If he refuse, no Error can be assigned; because there is no Law to warrant his doing it, and it wholly depends upon his Pleasure. It is not easy to conceive that such a Constitution can subsist in a well-regulated and free Government; and a Man, at least one who is no Lawyer, may doubt of its being so by the Constitution of *England*.

Chief Justice *Hales*, in his History of the Common Law, makes the following memorable Remark of the State of the Courts of Justice in the several Counties in *England*, when the Property of the Subject was determined in those Courts. His words are:—"All the Business of any Moment was carried by Factions and Parties: for the Free holders being generally the Judges, and conversing one among another, and being, as it were, *the Chief Judges not only of the Fact, but of the Law*, every Man that had a Suit there sped as he [33] could make Parties; and Men of great Power and Interest in the County did easily overbear

“others in their own Causes, or in such wherein they
“were interested, either by Relation of Kindred, Ten-
“ure, Service, Dependence, or Application.”

The Colonies, while all the Judges, and all the Officers of Justice in each Colony, are taken from among themselves, are precisely in the same State with the Counties in *England*, at the Time mentioned by Judge *Hales*. The Dissatisfaction that appears among great Numbers of People in *New York* with the Proceedings of the Courts of Justice, gives a strong Presumption that similar Causes have produced similar Effects there.

Several Families in New York are possessed of Lands of great Extent, greater than those of any Subject of *England*; some of them setting up boundless Claims. They are connected by Relation and Kindred with the Gentlemen of the Law, both on the Bench and the Bar, most of whom are themselves interested in one or other of the great Land Patents—They have formed still larger Con-^[34]nections by Party Interests. It is not then improbable that Combinations may be made between the Bench and the Bar, whereby partial Juries may be procured, wholly influenced in favour of such great Interests. In such Case, Property must become precarious to People of different Interests from them; and the Men of such Interest will evade, if possible, any Appeal to a Judicatory where they can have no such Influence. Supposing this to be the State of the Courts of Justice in *New York*, it may not be difficult to give a Reason for the violent Proceedings in Opposition to Appeals.

The King's Authority and his Rights are only secured by his Courts of Justice. If no Appeal is allowed from the Courts of Justice in the Colonies, they must be finally determined there; in which Case they may become precarious, and the Dependence on the Mother Country may become dubious, otherwise than by military Force.

These Remarks will be confirmed, by considering the State of the Courts of Justice, as set forth in Mr

Smith's History of New [35] York.—No Man knows the Practice of the Courts better. His Words are, Page 243 :

"The State of our Laws opens a Door to much Controversy. The Uncertainty with respect to them renders Property precarious, and greatly exposes us to the arbitrary Decisions of bad Judges. The Common Law of *England* is generally received, together with such Statutes as were enacted before we had a Legislature of our own. But our Courts exercise a *Sovereign Authority* in determining what Parts of the Common Law and Statute Law ought to be extended : for it must be admitted, that the Difference of Circumstances necessarily requires in some Cases to reject the Determinations of both. In many Instances they have also extended even Acts of Parliament passed since we had a distinct Legislation, which is adding greatly to our Confusion. The Practice of our Courts is not less uncertain than the Law. Some of the *English* Rules are adopted and others rejected."

[36] On considering the King's Instruction for admitting of Appeals, Mr. *Smith* makes the following Remark, Page 252 :

"Before the Arrival of Sir *Danvers Osborn*, Appeals were given to the Governor and Council in all Causes above One hundred Pounds Sterling. By this Instruction the Power of the Supreme Court, and of the Governor and Council, is prodigiously augmented. In this infant Country, few Contracts are equal to the Sums mentioned in the Instruction ; and therefore an *uncontroulable* Authority in our Courts may be dangerous to the Properties and Liberties of the People. Proper Checks upon Judges preserve them both from Indolence and Corruption."—Such were the cool Thoughts of this Gentleman in his Closet, before he was influenced by Party and Faction.

The only Conclusion at present drawn from the Whole is, that Lieutenant-Governor *Colden* may have

supported the Right of appealing to the King, with an honest Heart [37] and a sincere Sense of his Duty, against (in his Opinion) a dangerous Faction.

On the 10th of July 1765, this Appeal was, by the Claimant's Petition, brought before the King in his Privy Council, and referred to the Right Honourable the Lords of the Committee of Council for hearing of Appeals from the Plantations; who reported their Opinion on the 17th of the same Month; and on the 26th his Majesty was pleased to confirm their Report, and to order "that the Petitioner be admitted to bring his Appeal from the said Verdict and Judgment of the Supreme Court, &c. whereof the Governor, Lieutenant-Governor, or Commander in Chief of his Majesty's Province of *New York* for the Time being, and all others whom it may concern, are to take Notice, and govern themselves accordingly."

The Lieutenant-Governor received this Order on the 4th of *October* following, and having communicated it to the Council, ordered it to be entered on the Minutes of Council, and the Original to be lodged in [38] the Secretary's Office. By this Judgment of the King in his Privy Council, the Judgment of the Court of the Governor and Council is reversed, and the Opinion of the Lieutenant-Governor, signified by his Dissent, is confirmed. The most violent Resentment of the Faction, which governs the Courts of Judicatory in this Province, arose against the Lieutenant-Governor in Consequence of it. They, taking Advantage of the general Abhorrence against the Stamp Act, and which had been raised by the inflammatory Papers daily published, turned the Edge of the popular Fury against the Person of the Lieutenant-Governor, which before that Time they had not been able to do.

The Lieutenant-Governor had called the Assembly to meet him on the 13th of *November*, the Day on which Sir *Henry Moore* arrived with the King's Commission of Governor in Chief. The Fifth Day after Sir *Henry* arrived, the Lieutenant-Governor retired to his Country-

House, at about Fifteen Miles from the City, where he has remained, without intermeddling in the public Affairs.

[39] From the Proceedings of the Assembly, printed by Order of their Speaker, it appears that on *Saturday*, the 14th of *December* 1765, before Noon, the Assembly having read Seven several Bills, and the Report of a Committee, and made Orders on them severally, they resolved that the grand Committee for Courts of Justice be *revived*. From this it appears, that this Committee, before that Time, had been dismissed, as having nothing to report before them.—The House immediately resolved itself into a Committee, when a very long circumstantial Report was formed, read, and agreed to by the House: and immediately on the Speaker's taking the Chair, was again read, and reported by the Chairman:—was read a third Time, and approved by the House. In consequence of which, the Assembly, in the same Sitting, before Noon, made Nine several Resolves on the Subject of Appeals. Whoever considers the Business gone through at this Sitting, before Noon, must believe that no Time was allowed to the Committee to deliberate on their Report, though consisting of numerous Particulars and Circumstances; or to the Assembly afterwards to deliberate [40] on the Resolves they made; not even sufficient Time to put them in Writing; and therefore must conclude, that the Report of the Committee, and subsequent Resolves of the Assembly, were brought into the House previously formed in Writing without Doors, and hastily agreed to without Deliberation.

For the present Purpose, Three of the Nine Resolves only require particular Notice; *viz.* the Third, Fourth, and Fifth, in the following Words:

“*Resolved*,

“That the late Attempt to introduce such Appeal
 “(from the Verdict of a Jury to the King and Privy
 “Council) was illegal, an Attack upon the Rights of
 “the Subject, and a dangerous and mischievous Inno-

“ vation, tending to encourage Litigiousness and Delay,
 “ promote Perjury, prevent Justice, subject the People
 “ to arbitrary Power, and ruin the Colony.

“ *Resolved,*

“ That it appears to this House that *Cadwallader*
 “ *Colden*, Esquire, the Lieutenant-[41] Governor of
 “ this Colony, has, to the utmost of his Power, endeav-
 “ oured to give Success to that dangerous Machination,
 “ so naturally destructive of the Peace and Security of
 “ the Subject.

“ *Resolved,*

“ That the Conduct of the Lieutenant-Governor has
 “ filled the Minds of his Majesty’s Subjects in this Col-
 “ ony with Jealousies and Distrust, to the great Preju-
 “ dice of the public Service, and the Repose of the In-
 “ habitants.”

As to the First of these Resolves, it must be mani-
 fest, on the least candid Reflection, that trying a Cause
 over again by Appeal, cannot encourage Litigiousness
 and Delay, or promote Perjury and prevent Justice,
 more than a new Trial granted at the Pleasure of a
 Judge; or new Trials on Ejectments in the same Case,
 frequently brought in the Courts of Common Law.
 And if the Evidence given to the Jury were to be put
 in Writing, as, it is said, is done in the neighbouring
 Government of *Massachusetts Bay*, a great Advantage
 must thence arise to the [42] Jury, in considering the
 Evidence, after a Hearing of Twenty-four Hours, fre-
 quent in Land Trials. Some Men would swear more
 cautiously, knowing that what they said would be com-
 mitted to Writing; Perjury would thereby be discour-
 aged and detected, and Justice promoted.

Appeals from the Plantations are heard before a
 standing Committee of the Privy Council, of which
 some of the Judges are always Members; and they are
 finally determined before his Majesty in his Privy
 Council. What Answer is to be made to the bold As-
 sertion, that their Determinations are arbitrary, and
 would be ruinous to the Colony?

As to the Second of the above Resolves, it may be observed that, by the Constitution of the Government of *New York*, the Assembly have no judicial Authority; and their Determination was made on a partial Representation of one Side of the Question, without desiring to know what might be said on the other Side. The Question of Appealing came Judicially before the Lieutenant-Go-[43]vernor, in a Court which could not be held without his being present. He gave his Opinion, after mature Deliberation, and submitted it to the King in his Privy Council. This is the utmost the Lieutenant-Governor did to give Success to the *Machination*. He may have erred innocently. He took no irregular Step to enforce his Opinion; nor is he charged with having done so in any one Instance; which, without Doubt, would not have been omitted, had he done any thing to give a Colour to such a Charge.

What Principles must Men be actuated by, who can calmly make such Accusations? At a Time when the Spirit of Mobbing was up, and the Lives and Estates of Innocent Men, in several Instances, were most dangerously exposed to the Fury of the deluded Populace! —That the Lieutenant-Governor preserved either his Life or Fortune, so accused, and so pointed out, at such a Time, must be owing to the private Character which he had established in near Fifty Years Residence among the People!

[44] As to the last of these Resolves, it may be true, that an overbearing Faction in the Assembly, and in the Courts of Justice, may have entertained Jealousies and Distrust of the Right of Appealing, as destructive of their Power. But it is certain, a Distrust of much more Consequence to the Peace and Interest of the Colony prevails among the People, of the Courts of Justice, and a Jealousy of a powerful Combination in favour of the enormous Claims of the great landed Men; it may be a Question whether this has not already produced much Disturbance and Disquietude in

the Province. Great Numbers of Farmers and People of Estates and Families, have lately broke out into a riotous and tumultuary Defence of their Property and Possessions, which could not be suppressed without the Assistance of a Military Force. The Power of the Civil Authority alone must have been sufficient, had there not been a general Jealousy of a powerful Combination in the Courts of Justice, in favour of the extravagant Claims of the great landed Men.

[45] They who know the Members of the Assembly personally, will be ready to excuse the greater Number of them, as being innocently seduced into these Resolves, on Matters which they did not understand, by the plausible Arguments of some of their Members, greatly interested in the Disputes occasioned by the enormous Claims of the great Land Patents.

These Resolves greatly affect the King's Authority, and the Rights of his Crown; for they are only secured by his Courts of Justice. If the Extent of the King's Authority be finally determined by the Courts in the Colonies, it may become precarious. The Interest of the People in *Great Britain* likewise, must be equally affected by the Colonies assuming the Right of Judging of the merits of the Officers of the Crown, and of Punishing and Rewarding. It is said, that the Errors of the Judges may be corrected in the usual Manner by Writ of Error; but the usual Method in Error is not to the King in his Privy Council; and our Lawyers and our Assembly may declare this Method to be illegal, because not conformable to the [46] Practice at *Westminster*. If there should be a combination among the Officers of the Courts of Justice, to bring every Cause, in which the King's Rights are concerned, to a general Verdict, no legal Error can be assigned in the Judgment, however iniquitous the Verdict be. Lastly, it gives a strong Presumption that a powerful and dangerous Faction does subsist, when they endeavour to carry their Point by publick Clamour and virulent Calumny; the only Means by which a bad

Cause can be carried, and which no honest Man will make use of.

3dly, The only remaining Part of the Lieutenant-Governor *Colden's* Conduct which has been blamed, is the Deference which he had to an Act of Parliament for imposing a Stamp-Duty in the Colonies. Though the Faction, in Opposition to the Lieutenant-Governor, made use of the Ferment excited in the Minds of the Populace, by the inflammatory Papers daily published, to turn the Rage of the Mob personally against the Lieutenant-Governor, yet his Conduct on that Occasion had little share in the Resentment of those who excited and conducted the Tumults; [47] and after he had retired from the Administration, the People never shewed the least Resentment personally against him.

Soon after the Stamp Act had passed, printed Copies of it were brought over to *America*. The Act was reprinted in this Province, and in some other Colonies, and for some Time no Doubt was entertained of its taking Place. The Printers published their Almanacks for the ensuing Year some Months earlier than usual, with a View to sell them before the Time at which the Act was to take Place; and in these Almanacks the several Things subjected to a Stamp-Duty were placed in alphabetical Order, for the Conveniency of the Inhabitants. Though some inflammatory Papers began soon to appear, they seemed for a considerable Time to be little regarded. These Papers alone could not have had the Effect afterwards produced, had not some in high Trust privately promoted the most violent Proceedings. The common People had not felt any Uneasiness from the Stamp-Duty, and never of themselves could have felt any; and therefore, unless they had been insti-[48]gated by others, would never have expressed any Uneasiness.

The Lieutenant-Governor and the Gentlemen of the Council went, as usual, to their Country Houses during the Summer Heats. Mr. *M'Evers* entered into a Bond, before the Lieutenant-Governor, at his Country House,

in *August*, for the due Performance of his Office of Distributor of Stamps. People remained quiet until after the Riots at *Boston*, and the Meeting of the Committees of the several Colonies at *New York*.

In the Beginning of *September*, the Lieutenant-Governor received a Letter from General *Gage*, Commander in Chief of his Majesty's Army in *America*, complaining of the treasonable Papers daily published, filled with Falsehoods, in order to excite the People to revolt; and that this was done not only with Impunity, but without any Notice taken of the Authors and Printers; concluding with an Offer of any military Assistance which should be thought necessary. About the same Time the Lieutenant-Governor received a Letter from Mr. *M'Evers*, wherein [49] he resigned his Office of Distributor of Stamps, and desired the Lieutenant-Governor to take Care of the stamped Papers and Parchments, when they arrived; declaring at the same Time, that his Person and Effects were threatened in such Manner, that he durst not execute his Office.

The Lieutenant-Governor immediately returned to Town. On his Arrival, he found that two Companies of the Artillery Regiment had arrived from *England*, and were ordered into the Fort, together with several Pieces of Ordnance, Ammunition, and military Stores necessary for its Defence. This was done without any Direction from the Lieutenant-Governor, and in truth without his Knowledge.

The Lieutenant-Governor called the Council, and laid the General's Letter and Mr. *M'Evers* Resignation before them. As most of the Gentlemen of the Council were then in the Country, those present declined to give any Advice, till the others were called in. In a few Days a full Council met. The Magistrates of the City were [50] called in to give their Opinion. Both the Council and the Magistrates were of Opinion, that there was not the least Danger of any Riot; and that the calling in military Assistance would shew unnecessary Diffidence of the People. The Lieutenant-Gover

nor submitted to this Advice, though he could not free himself from some Doubts. He then was and still is of Opinion, that had the Gentlemen of the Council, the Judges, and the Magistrates, heartily joined their Endeavours to prevent any Riot or Mob, none had happened in the City of *New York*.

It having been openly and repeatedly declared, that the Mob was resolved to destroy the stamped Papers and Parchments, and that they would put this Design in Execution before the Ship came near the Town; the Lieutenant-Governor desired the Captains of his Majesty's Ships, then in the Harbour, to take the proper Methods to guard against such Design. The Captains immediately complied; and when the Ship arrived with the stamped Paper on board, she was brought to an Anchor under the [51] Command of the Frigates and the Guns of the Fort. But the Packages of Stamps were so intermixed with the other Goods, that it was impossible to get them out of the Ship, without unloading a great Part of the Cargo: the Lieutenant-Governor therefore told the Master and Owner of the Ship, that they might carry her to the Wharf, and that he would direct the Mayor of the City to protect her, until the stamped Papers were landed. On which both of them remonstrated, that thereby the Ship, and all the Goods on board, would be in imminent Danger of being destroyed; and therefore, in Behalf of themselves and all the Freighters, requested that he would desire the Frigates to assist in removing the Goods, until the stamped Papers could be taken out. This was accordingly done, and the Packages of Stamps were brought on Shore at Noonday, and carried into the Fort, without any Guard, and without the least Molestation from any Person in the Town. The Demagogues were not apprised of this, and the People of themselves were quiet.

[52] Between this, and the First of *November*, the Lieutenant-Governor frequently passed through the Streets in his usual Manner, without the least Appearance of Disrespect or Insult offered to him.

Certain Advice had been received that Sir *Henry Moore*, the new Governor, had sailed from *England*, and his Arrival was every Hour expected. The Lieutenant-Governor thought it would not be necessary for him to take the Oath enjoined on all Governors by the Act of Parliament to be taken on or before the last Day of *October*. But the new Governor not arriving on that Day, the Lieutenant-Governor in Council took the Oath as required by the Act of Parliament. It is true one of the Judges gave his Opinion, that as the Act of Parliament had not been transmitted, as usual in such Cases, to the Governor, by any of his Majesty's Ministers, and as he had received no Directions relative to the Execution of that Act, he was under no Obligation to take the Oath : But as that Act was notoriously known and published in the Province, the Lieutenant-Governor could not pretend Ig-[53] norance of it ; and he was of Opinion, that every Man is obliged to yield Obedience to a public Law ; and so thought every Governor on the Continent ; they were all in the same Situation, and all took the Oath before the First of *November*.

Soon after the Lieutenant-Governor had taken the Oath, the first personal Disrespect to him appeared. Placarts were fixed up in the Merchants Coffee House, and at the Corners of the Streets, upbraiding the Lieutenant-Governor for having, as it was styled, *bound himself by an Oath to be the chief Murderer of the Rights and Privileges of the People ; to be an Enemy to his King, his Country, and Mankind ;* and threatening to bring his *grey Hairs* to the most ignominious Death, in case he attempted to put that Law in Execution : In consequence of which, that egregious Insult on the Person of the Lieutenant-Governor, and on the Government, happened in the Evening of the First of *November* : An Account of which was published in all the News-Papers in *America*, and from thence in the News-Papers in *Great Britain*.

[54] The Fort, at the Time of this Insult, was far

from being in a proper State of Defence. For many Years preceding, it had only been regarded as the Place of the Governor's Residence, and every Thing about it had been ordered for the Pleasure and Conveniency of his Family. No Parapet or Breast-works on the Ramparts; the Men on them all exposed; the Range of the Flanking Guns every where obstructed by Buildings without the Walls, and other Conveniencies for the Governor's Use. As the Gentlemen of the Council, and the Magistrates of the City, had assured the Lieutenant-Governor that there was no Danger of Riots or Mobs, and thought it imprudent to shew any Diffidence of the People, he suffered the Fort to remain in that State: But notwithstanding this, the Lieutenant-Governor had Force sufficient to have dispersed that most insolent Mob. The only Security they had, was from his Prudence and Humanity. One Discharge of the Artillery and Musketry in the Fort, must have destroyed many Hundreds of them; and the breaking open his Coach-House and Stables might have Justified the Use of Force: But in such Case many more innocent People must have suffered, than the whole Number of the Guilty. Possibly a Sergeants Command (as it was thought) might have saved the Governor's Chariot; but perhaps with Bloodshed, as many of the Mob were drunk; and when once Blood is shed no Man can tell where it will end.

Next Day the Mob continued to patrol the Streets; and encouraged by their late Success, they boldly threatened to put every Person in the Fort to Death, and at any Risque to destroy the Stamped Papers lodged there. The Engineers of the Army were then ordered to put the Fort in the best Posture of Defence they could. It was now apparent that the Mob had not been raised only to make a Shew of their Resentment against the Stamp Act. They had sufficiently deterred every Man from attempting to execute any Office under that Act. The Lieutenant-Governor, though determined to preserve the Stamped Papers

from Destruction, could not oblige any Person to make use of One of them: Nor did he on any Occasion discover an Inclination to compel an Obedience to the Act by Force. He [56] thought it necessary that the Officers of Government should exert all their Power and Influence, and that the Appearance of a Military Force should assist to preserve the Peace and Decorum of Government, and to prevent such scandalous and destructive Riots, as had happened in the Neighbourhood.—He thought he would be inexcusable to suffer the Stamps to have been destroyed, while every Thing in his Power had not been done to preserve and protect them.

Works for Defence, and strengthening the Fort, were immediately set about. While these were carrying on, several Gentlemen of the Town came into the Fort, and earnestly pressed the Lieutenant-Governor to declare that he would not distribute the Stamps, but leave that Matter as it stood, till the new Governor arrived; assuring him, that this Declaration would restore Peace and Quietness to the City. This was designed only as a new Insult; for these Gentlemen knew, as every Man in the Town did, that it was not in the Lieutenant-Governor's Power to distribute one Stamp. No Man would accept [57] the Office of Distributor of Stamps, and no Man would receive a Stamped Paper. The Lieutenant-Governor perceived the View of this Demand; he must either, by refusing it, draw the whole Rage of the Mob personally upon himself; or, by complying, disregard, in Appearance at least, the Oath he had taken. He was sensible his Oath did not require Impossibilities of him, and therefore late in the Afternoon he called the Council. They unanimously advised him to make the Declaration required, as the new Governor was every Hour expected; which accordingly he did in Council. The Declaration being expressly founded on Sir *Henry Moore's* speedy Arrival, had any Accident prevented him, no Man could think the Lieutenant Governor longer bound by it.—It was then

beginning to grow dark, and the Streets were full of the Mob; the Gentlemen of the Council went out to them, informed them of the Lieutenant Governor's Declaration, on which they immediately dispersed.

After this the Town remained quiet for Two Days, and would have continued so, [58] had not the Directors of the Mob entertained Hopes, from the Concessions already made, to reduce the Lieutenant-Governor to the lowest Abjectness. The Mob were set upon a new Demand, that the Stamped Papers should be sent on board One of the King's Ships.

As no Reason could be given for this Measure, but that the Mob would have it so, and several very strong Reasons appeared against it. The Lieutenant-Governor was not of Opinion that Captain *Kennedy* should be desired to take the Stamps on Board; but the Gentlemen of the Council thinking otherwise, he wrote to Captain *Kennedy*, informing him of their Desire, without joining in it. Captain *Kennedy* urged that the Stamped Papers were more safe in the Fort, than they could be on board any of the Frigates;—that the Season of the Year would very soon oblige the Ships to haul to the Wharfs, and that then both the Papers and the Ships might be exposed to the Mob; and therefore he thought it unadvisable to put them on board.

[59] As the Cannon on the Batteries might be turned against the Fort, they were at this Time ordered to be spiked, as was likewise all the Artillery belonging to the Army which had not been brought into the Fort. That this was not an unnecessary Precaution, will appear from the Declaration which the Council made, that the City was in the utmost Confusion and Anarchy;—that the Magistrates had no Power over the People;—and that they feared an Attempt on the Fort would be actually made.

Every thing was prepared in the Fort for a Defence, Numbers of the Gentlemen of the Town came in at several Times to propose some Method of Accommodation: They had full Opportunity of discovering the old

Man's Disposition of Mind: Fear was very evident in the Countenances of those, who the Day before expected to frighten the Lieutenant-Governor into the most abject Compliances. Nothing now remained, but to save their Credit in some Manner with the Mob, and to appease their Fury; which many of the principal Gentlemen then declared they feared would [60] end in a general Pillaging of the Town: For this Purpose the Corporation in a Body attended the Lieutenant-Governor, and prayed that he would deliver the Packages of Stamped Papers to them, and they would answer for their Safety. He would gladly have done this when the Ship arrived with them: but he would then have been thought mad to propose it. He being still extremely desirous to deliver up the Administration in Peace to his Successor, answered, that he would advise with the Council on this Proposal.

The Council being immediately called, the Lieutenant-Governor informed them of the Proposal made by the Corporation; at the same Time observing to them, that the Effect of yielding to unreasonable Demands, was only to draw on still more Insults; and that he could not conceive where these would end. He pressed in the most urgent Manner, that the Gentlemen of the Town should unite with the Magistrates; being fully persuaded, that if they would act with Spirit, they could immediately suppress the Mob, and restore the Honour and Peace of [61] the City. He urged the same to every Citizen who came in to him; and offered, if they would associate, to appoint such Officers to command them as they thought fit. The Gentlemen of the Council, however, unanimously advised him to comply with the Desire of the Corporation: He thought it necessary, for his farther Justification, to ask the Advice of the General of his Majesty's Forces, by a Letter to him. The General in his Answer concurred with the Advice of the Council. The Packages of Stamps were delivered to the Corporation, on their obliging themselves in Writing to make good all that should be destroyed,

lost, or sent out of the Province, at the Value they could have produced by the Distribution of them.

The Lieutenant-Governor had informed the Secretary of State, that he had it much at Heart to deliver up the Government to his Successor in Peace and Quietness. In no one Instance did he compel an Obedience to the Act of Parliament; he only defended himself against a Force employed to make [62] him disobey a Law which he thought obligatory.

The Packages were delivered to the Corporation on the Fifth of *November*; after which all Threatening ceased, and the City remained quiet until Sir *Henry Moore* arrived on the 13th. The Lieutenant-Governor immediately removed from the Fort to his Grandson's House in the Town, where he stayed some Days, and walked the Streets several Times, without having the least Disrespect shewn to him by any Person: Afterwards he retired to his Country House, about Fifteen Miles from the Town, where he has remained without the least Disturbance in any Shape.

That a dangerous Faction does now actually subsist in *New York*, is evident from what precedes; but is more strikingly so by the Calumnies which have been wickedly insinuated in a Weekly-Paper, in such manner as deprives an honest Man of every proper Method of Defence. These Papers clearly shew how willing the Authors are to expose every Slip or Fault in the Lieutenant-[63] Governor's Conduct; and when they have not been able to shew any, except as abovementioned relating to the Judges Commissions, Appeals to the King, and his Deference to an Act of Parliament, it may have some Weight in Favour of the Lieutenant-Governor with candid Enquirers.

Among other Falshoods industriously propagated to prejudice the Lieutenant-Governor, his Enemies have reported that he made a large Sum of Money while he had the Administration; and that he took himself, or gave to his Family, such a Quantity of Land, as must in Time become a very great Estate: In Answer to

which it is asserted, that he did not receive a single Shilling, but from the public Offices where the Governor's Fees are usually paid ;—that the same Fees, and no greater, were taken during his Administration than had been paid for Forty Years before : That neither he, nor any One of his Family, received a Reward of any Kind, directly, or indirectly, for any Favour or Service, except the Fees abovementioned ;—that he did not take to himself, by any Way, a single Acre of Land [64] while he had the Government ; and that what he gave to all his Family together, is so very trifling as not to be worth mentioning. In truth, he may much rather be blamed for having entirely neglected any Advantage of this kind for himself or his Family. Gentlemen, who were Governors in Chief immediately before Mr. *Colden*, know they could not support the Dignity of a Governor in a tolerable Manner, upon the whole Salary and Perquisites of the Government. Is it possible he could save a large Sum out of the Half of them ? He paid one half of all he received to the Governor in Chief, during the greatest Part of his Administration ; and had it not been for the Advantages he received from the Fees for the Grants of Land, the Half-Salary, and other Perquisites, would have fallen far short of his Expences. The most malicious Caviller is challenged upon the Truth of these Assertions.

The Loss which the Lieutenant-Governor sustained on the First of *November* 1765, is notoriously known. The usual Support of Government ceased the First of *September* [65] preceding, and thereby the Lieutenant-Governor had no Salary from that Time to the 13th of *November*, the Day Sir *Henry Moore* arrived. In that Time the unavoidable Expence attending the Administration was much greater than at other Times it could be. The Salary in that Time, with the Loss the Lieutenant-Governor sustained, amounted to Five Hundred and Ninety-Five Pounds, Three Shillings.

The Assembly of *New York* met in *June* last. Sir *Henry Moore*, in his Speech to them, by his Majesty's

Command recommended to them to make good the Losses any Person had sustained by his Deference to the Act of Parliament imposing a Stamp Duty in the Colonies, pursuant to a Resolution of the House of Commons of *Great Britain*. The Lieutenant-Governor sent, in a Letter to the Speaker of the Assembly, a particular Account of his Losses, certified as usually done in like Cases: It was received by the House, as appears on their Minutes, but was not in any manner proceeded on, and thrown aside.

[66] No-where in the Colonies were the Insults on Government so daring as at *New York*.—No Commander in Chief, besides Mr. *Colden*, suffered any personal Loss. He can challenge any Man to shew any Provocation, or any Reason why he has been treated with such Indignity, besides what is before mentioned. If he suffer without any Recompence, his Majesty's Servants in *America* may for the future be deterred from their Duty, and from giving proper and necessary Information to his Majesty's Ministers.

The Facts herein set forth are averred to be strictly true; and may, the most Part of them, appear from Papers in the Secretary of State's Office, and the Plantation Office.—The reasoning Part is submitted to the Reader's Judgment; in which an honest Man may innocently err, without giving just Cause of Offence.

FINIS.

CORRECTIONS, ETC.

PAGE.

- 166. Letter of April 25, 1768, was to the Earl of Hillsborough.
- 169. Blank should read, £595, 3, 0.
- 170. Blank should read, "enclosed Narrative."
- 173. Letter of June 16, 1768, to the Earl of Hillsborough.
- 219. Letter of May 16, 1770, to the Earl of Hillsborough.
- 221. Letter of July 7, 1770, to the Earl of Hillsborough.
- 339. For Keene read Skene.

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 514. SAME, "
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 523. WM. T. RYERSON, *N. Y. City.*

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 532. BERTIAH PALMER, "
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 537. EZRA A. HAYT, "
 538. WILLIAM G. LAMBERT, "
 539. CHARLES S. SMITH, "
 540. CHARLES A. MAOY, "
 541. SAMUEL RAYNOR, "
 542. LUCIUS TUCKERMAN, "
 543. WILLIAM BETTS, "
 544. WILLIAM K. STRONG, "
 545. JOHN D. JONES, "
 546. SAME, "
 547. THOMAS C. DOREMUS, "
 548. RUDOLPH A. WITTHAUS, JR., *N. Y. City.*
 549. F. W. MACY *Cranford, N. J.*
 550. J. N. IRELAND, *Bridgeport, Conn.*
 551. WILLIAM MONTROSS, *N. Y. City*
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 557. JOHN H. RIKER, "
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 559. GEORGE DIXON JR., "
 560. HAMILTON ODELL, "
 561. CHARLES B. RICHARDSON, "
 562. HORATIO NICHOLS, "
 563. GEORGE T. HALL, "
 564. HENRY A. BURR, "
 565. FRANKLIN H. DELANO, "
 566. JAMES M. DEUEL, "

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 571. J. S. DAVENPORT, *Boston, Mass.*
 572. BRONSON PECK, *N. Y. City.*
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 574. WILLIAM DOWD, "
 575. DAVID L. BAKER, "
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 577. CLARKSON N. POTTER, "
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 591. GEORGE PALEN, "
 592. GEORGE GRISWOLD, "
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 594. FRANK MOORE, "
 595. WILLIAM H. LEE, "
 596. H. P. CROZIER, "
 597. HENRY E. CLARK, "
 598. JACKSON S. SCHULTZ, "
 599. JOHN CARTER BROWN, *Providence, R. I.*
 600. JOHN CARTER BROWN, 2d, *Providence, R. I.*
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 604. J. T. LEAVITT, "
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 606. JOHN W. MUNRO, *N. Y. City.*
 607. PARKER HANDY, "
 608. SAME, "

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 638. JOEL MUNSELL, *Albany.*
 639. SAME, "
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 641. SAME, "
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 651. SILVANUS J. MACY, "
 652. HENRY J. SCUDDER, "

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 706. LONG ISLAND HISTORICAL SOCIETY, *Brooklyn, N. Y.*
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 708. NEW BEDFORD FREE LIBRARY, *New Bedford, Mass.*
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 715. CORTLANDT DE PEYSTER FIELD, *N. Y. City.*
 716. JOHN FITCH, *N. Y. City.*
 717. SAME, "
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 726. GRATZ NATHAN, "
 727. B. F. DE COSTA, "
 728. HENRY O. POTTER, "
 729. HENRY NICOLL, "
 730. GEORGE E. MOORE, "

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731.	JOHN F. TROW, <i>N. Y. City.</i>	747.	GEORGE H. MOORE, <i>N. Y. City.</i>
732.	SAME, "	748.	SAME, "
733.	SAME, "	749.	SAME, "
734.	SAME, "	750.	SAME, "
735.	SAME, "	751.	WILLIAM J. HOPPIN, "
736.	SAME, "	752.	JAMES W. BEEKMAN, "
737.	SAME, "	753.	JOSEPH F. LOUBAT, "
738.	SAME, "	754.	CARLISLE NORWOOD, JR., "
739.	SAME, "	755.	JAMES HAVEMEYER, "
740.	SAME, "	756.	THE PEABODY INSTITUTE, <i>Baltimore, Md.</i>
741.	GEORGE H. MOORE, "	757.	T. HARRISON GARRETT, <i>Baltimore, Md.</i>
742.	SAME, "	758.	THE LIBRARY OF THE UNIVERSITY, <i>Toronto, Canada.</i>
743.	SAME, "	759.	FRANCIS BAKER, <i>N. Y. City.</i>
744.	SAME, "		
745.	SAME, "		
746.	SAME, "		

SHAREHOLDERS BY TRANSFERS TO DECEMBER, 1877.

SHARE		SHARE	
18.	JOSEPH J. COOKE, <i>Providence, R. I.</i>	296.	ELEANOR MARY CRONIN, <i>N. Y. City.</i>
20.	GEORGE FARMER, <i>N. Y. City.</i>	305.	FRED'K THOMPSON, <i>N. Y. City.</i>
31.	HENRY P. CAMPBELL, "	321.	SAMUEL Y. CLARK, "
41.	JAMES A. ROOSEVELT, "	349.	HARVARD COLLEGE LIBRARY, <i>Cambridge, Mass.</i>
43.	MRS. SARAH D. THOMPSON, "	351.	THOMAS H. MONTGOMERY, <i>N. Y. City.</i>
47.	RACHEL T. WHITEHEAD, "	358.	ROBERT S. MILLER, <i>N. Y. City.</i>
83.	HUGH H. BOWNE, "	426.	EVERETT P. WHEELER, "
84.	EDWARD A. WALTON, "	427.	JOHN H. SPRAGUE, "
90.	ASHER R. MORGAN, "	450.	EUGENE H. LECOUR, "
94.	CHARLES H. GUILD, <i>East Somerville, Mass.</i>	470.	WILLIAM BOLLES HALSEY, <i>N. Y. City.</i>
98.	JACOB A. GROSS, <i>N. Y. City.</i>	496.	BOSTON ATHENÆUM, <i>Boston, Mass.</i>
111.	J. K. WIGGIN, <i>Boston, Mass.</i>	502.	THE PUBLIC LIBRARY, <i>Cincinnati, Ohio.</i>
136.	EUGENIA BRODHEAD, <i>N. Y. City.</i>	508.	JOSEPH SABIN, <i>N. Y. City.</i>
150.	GEORGE H. PEEKE, <i>Jersey City, N. J.</i>	509.	D. NOBLE ROWAN, "
167.	JOHN J. THOMPSON, <i>N. Y. City.</i>	512.	JOSEPH SABIN, "
174.	LUCIE P. BENEDICT, "	528.	THE ASTOR LIBRARY, "
187.	J. K. WIGGIN, <i>Boston, Mass.</i>	532.	NATHAN B. WALKER, "
195.	ELLSWORTH ELIOT, M.D., <i>N. Y. City.</i>	540.	FRANCIS H. MACY, JR., "
284.	SAMUEL C. BLACKWELL, <i>Somerville, N. J.</i>	559.	DAVID G. FRANCIS, "

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663. EUGENIA BRODHEAD, *N. Y.*
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664. FRANK NICOLLS KENNIN, *On-*
tario, Canada.
670. WM. P. PRENTICE, *N. Y. City.*
684. EDWARD C. WILDER, "
685. C. V. B. OSTRANDER, "

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698. THE COLLEGE OF NEW JERSEY,
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714. JOHN EVERITT, *N. Y. City.*
716. JAMES M. HUNT, "
719. HAVERFORD COLLEGE LIBRARY,
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727. DAVID G. FRANCIS, *N. Y. City.*

5.

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